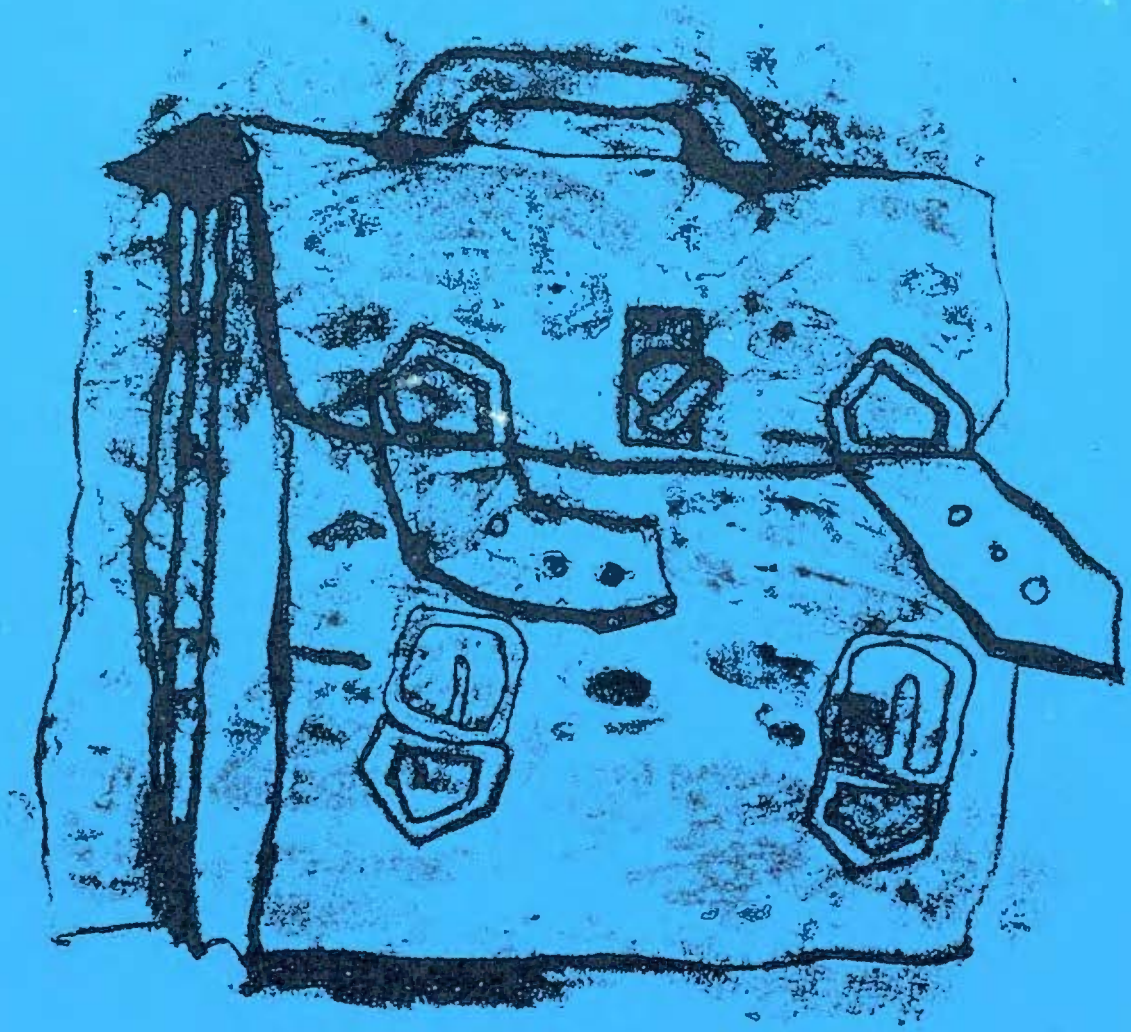
Desegregation of the Nation's Public Schools: A Status Report

February 1979



U.S. COMMISSION ON CIVIL RIGHTS

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- Study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin;
- Submit reports, findings, and recommendations to the President and the Congress.

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Letter of Transmittal

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THE PRESIDENT
THE PRESIDENT OF THE SENATE
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

Sirs:

The U.S. Commission on Civil Rights presents this report pursuant to Public Law 85–315, as amended.

This is the latest in a series of Commission reports that evaluate the status of school desegregation across the Nation. It focuses on developments since August 1976 when the Commission issued a detailed and comprehensive study of progress and issues involved in the school desegregation effort.

This report briefly reviews developments in all three branches of the Federal Government. While the Supreme Court of the United States holds fast to established constitutional principles that mandate school desegregation, the Congress has taken steps that severely impede the ability of the executive branch, specifically the Department of Health, Education, and Welfare (HEW) to enforce the Civil Rights Act of 1964, which Congress itself enacted in recognition of the need to end racial discrimination in all aspects of our national life, including education.

This report raises questions about some aspects of HEW's role in school desegregation that we trust its leadership will soon address. Such questions concern the Department's fund termination policies with respect to school districts where equal opportunity violations are found as well as the use of student enrollment data that HEW's Office for Civil Rights collects on a regular basis.

Brief surveys of the status of school desegregation in 47 school districts indicate that the adjustment of parents and students to desegregation continues and that predictions of serious racial conflict and a deteriorating quality of education have proved groundless. The surveys also indicate, however, that local school officials in some districts have taken little action to desegregate their schools. Latest HEW data, moreover, show that segregation of minority students in some school districts and in some regions of the Nation remains at discouragingly high levels. Within desegregated schools, problems such as discriminatory disciplinary policies continue to require correction by appropriate school officials.

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School desegregation not only continues to be a constitutional requirement but a vital national goal that we believe is broadly supported by the American people. We believe that the public interest, as well as the cause of equal opportunity in our public schools, will best be served by a consistent and purposeful effort on the part of government at all levels to achieve that goal.

We urge your consideration of the facts and findings presented and request your leadership in ensuring implementation of the recommendations made.

Respectfully,

Arthur S. Flemming, *Chairman*
Stephen Horn, *Vice Chairman*
Frankie M. Freeman
Manuel Ruiz, Jr.
Murray Saltzman

Louis Nuñez, *Acting Staff Director*

ADDITIONAL STATEMENT BY VICE CHAIRMAN STEPHEN HORN

I am pleased that in Recommendation 2(a)(1) my colleagues have recognized the paucity of data which exists in formulating and implementing national policy to desegregate the public schools and urged that "The Department of Health, Education and Welfare, through its Office for Civil Rights and its National Institute of Education, should continue to intensify the gathering and analysis of statistical data on a long-term basis in order to establish a national data base by school district that will permit a longitudinal analysis of the impact of desegregation so that appropriate policies can be devised and implemented."

There is a paucity of data to judge the effectiveness of public school desegregation. The sad fact is that a quarter of a century after *Brown v. Topeka* we have no standard or criteria to measure "progress" in this controversial area. We have assembled forty-seven impressionistic summaries of what presumably has happened in the communities involved. Some of those reports contain interesting information. There may be an idea which will help a community leader in another city who is struggling to make desegregation work.

The type of statistical data needed is not simply tabulations of students and school employees by race/ethnicity and sex at given points in time. That would be a start, but more than that there is a need for data on school suspensions and the effects of racial isolation and the changes which occur in the transition from racial isolation to a desegregated learning experience.

Many studies have been done in a few schools or a district seeking to analyze the effects on student learning and personal growth as well as on the community of both successful and unsuccessful transitions from segregated to desegregated schools. These have varied in methodology and quality. Few have encouraged comparison. There is a need for a national data base which is also developed on a random sample basis to follow a student through time based on the type of school attended so that appropriate policies can be devised and implemented to further the aim enunciated in *U.S. v. Jefferson County Board of Education* [372.F. 2d. 836, 847 (5th cir. 1966)] that "the only school desegregation plan that meets constitutional standards is one that works."

Currently policymakers can pick an isolated social science study completed on one school or a district and use it to support or oppose a particular course of action. That can be done because the Federal Government has been negligent in establishing a systematic program of analysis which would aid policymakers in judging the effectiveness and the intended and unintended consequences of desegregation.

To measure the "direction of change," one must have a base and know where one is. And it is this fact which apparently scares some since that would mean securing base data on cognitive achievement, co-curricular activities, personal attitudes toward each other and other racial/ethnic groups, etc. in schools as they now are. Some are segregated. Some are desegregated. Some are in various stages of transition in between.

Beating one's breast and pontificating that "the law of the land must be carried out" does not assure that the law will be carried out. The preparation of plans that work is what implements the law. To prepare such plans, we need better information on what has worked and what has not worked and under what conditions. Only the executive branch of the Federal Government has the resources to carry out the type of longitudinal project envisioned here. After a quarter of a century, it is about time that we begin.

Acknowledgments

The Commission is indebted to the following staff persons in the Office of National Civil Rights Issues who prepared this report: Dolores de la Torre Bartning, project director; Vi Baluyut, Clinton Black, Jessalyn P. Bullock, David Grim, Eric P. Jensen, and Sonia Porter. Almeda E. Bush and Patricia Y. Ellis assisted Barbara J. Hulin in providing support.

Appreciation is also extended to Reita Pendry of the Office of General Counsel, Dr. Gregg Jackson, private consultant, and Data Bank Systems for their assistance in providing legal and data analyses for the study.

The Commission is also indebted to staff in the Commission's nine regional offices who prepared the 47 school desegregation reports contained in chapter four of this study.

The report was prepared under the immediate supervision of James B. Corey, Director, Program Operations, Office of National Civil Rights Issues, and under the overall direction of William T. White, Jr., Assistant Staff Director, Office of National Civil Rights Issues.

Preparation for publication was the responsibility of Deborah A. Harrison, Vivian M. Hauser, and Audree B. Holton, Publications Support Center, Office of Management.

CONTENTS

Preface

In its landmark decision in 1954 in *Brown,* the Supreme Court of the United States noted that "education is perhaps the most important function of state and local governments."[1]

> It is required in the performance of our most basic responsibilities. . .it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him adjust normally to his environment. . .it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.[2]

The Court ruled that State-mandated public school segregation on the basis of race is "inherently unequal" and therefore unconstitutional. This momentous decision not only outlawed the system of school segregation that had evolved in the United States, but it also provided the legal basis for attacking racial segregation in virtually every aspect of our society.

Since its creation in 1957, the U.S. Commission on Civil Rights has consistently viewed the *Brown* ruling as the most critical civil rights development in this century. The Commission continues to believe that no more important challenge faces the Nation than the elimination of all discrimination from our public schools. Accordingly, no civil rights issue has received greater attention, and the Commission has published numerous studies evaluating desegregation progress and problems during the past two decades.[3]

On the basis of information gathered during formal hearings, open meetings, case studies, a national survey, and other research conducted nationwide, the Commission published a major, comprehensive study entitled *Fulfilling the Letter and Spirit of the Law: Desegregation of the Nation's Public Schools* in August 1976. That study reported substantial progress in parental and student acceptance of desegregation, but it also noted that "much work remains to be done before equal educational opportunity becomes a reality."[4] Many school districts, particularly large ones, remained segregated, and in some desegregated schools the Commission found disturbing patterns of discrimination against minority students in discipline and in class assignment policies.

The Commission has continued to monitor school desegregation since release of that study in 1976. In 1977 it published *Statement on Metropolitan School Desegregation.* In two annual reports, *The State of Civil Rights* (for 1976 and 1977), it again briefly evaluated the status of public school desegregation. The 1977 report noted growing acceptance of desegregation and improved conditions in schools in various communities. Effective desegregation in many localities remained a distant goal, however.[5]

This report is one of a series of studies prepared by the Commission's Office of National Civil Rights Issues to provide timely information of importance to those agencies and individuals responsible for ensuring that equal opportunity in all areas, including education, becomes a reality. This report examines school desegregation developments during the past 2 years in the three branches of the Federal Goverment—judicial, executive, and legislative.

The report includes an interpretation, developed by the Commission's Office of General Counsel, of the present position of the Supreme Court of the United States on legal requirements for school desegregation, a review of recent congressional legislation concerning public school desegregation, and a discussion of school desegregation enforcement activities of the Department of Health, Education, and Welfare (HEW). It also includes new data, gathered by HEW, on existing segregation by race and ethnicity in our public schools. Finally, the report contains brief reviews prepared by the

[1] 347 U.S. 483, 493 (1954).

[2] *Id.*

[3] See, for example, U.S. Commission on Civil Rights, *Racial Isolation in the Public Schools* (1967); *Five Communities: Their Search for Equal Education* (1972); *Your Child and Busing* (1972); *Inequality in School Financing: The Role of Law* (1972); *The Diminishing Barrier: A Report on School Desegregation in Nine Communities* (1972); *Title IV and School Desegregation: A Study of a Neglected Federal Program* (1973); *School Desegregation in Ten Communities* (1973); *Para Los Ninos ' For the Children* (1974); *Mexican American Education Study,* six reports (1971–74); *Desegregating the Boston Public Schools: A Crisis in Civic Responsibility* (1975); *Twenty Years After Brown,* chap. 4 (1975); *The Federal Civil Rights Enforcement Effort—1974,* vol. III, *To Ensure Equal Educational Opportunity* (1975); *A Long Day's Journey into Light* (1976).

[4] U.S. Commission on Civil Rights, *Fulfilling the Letter and Spirit of the Law* (1976), p. ii.

[5] U.S., Commission on Civil Rights, *State of Civil Rights: 1977* (1978), pp. 7 ' 8.

Commission's nine regional offices, of the current state of desegregation in 47 school districts nationwide and considers the status of metropolitan or interdistrict desegregation approaches in large urban areas characterized by predominantly minority city schools and primarily white suburban schools.

We believe that this latest study documents the need for a reinvigorated, determined, and positive effort by the executive and legislative branches of the Federal Government, as well as responsible State and local officials, to complete the constitutionally mandated task of desegregating the Nation's public schools.

Chapter 1

The Supreme Court and School Desegregation

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish." Thus reads section 1 of article III of the Constitution of the United States. It was the Supreme Court, in its 1954 *Brown* decision, that started the process of desegregating the Nation's public schools.

A brief recitation[1] of the more important school desegregation decisions between 1954 and 1976 will assist in understanding the significance of the decisions of the last 2 years cited later in this section. Note that from *Brown II* (1955) to *Jefferson County* (1966) no decisions are cited. As one constitutional scholar put it, "during the entire period from 1955 until 1967—the Supreme Court decided few desegregation cases and provided little help for the lower courts."[2]

Brown v. *Board of Education* (349 U.S. 294 (1955), popularly known as "Brown II," called for "good faith compliance" and "all deliberate speed" in carrying out the mandate of the 1954 decision.

U.S. v. *Jefferson County Board of Education* (372 F.2d 836, 847 (5th Cir. 1966)) found that "the only school desegregation plan that meets constitutional standards is one that works."

Green v. *County School Board* (391 U.S. 430 (1968)), rejected "freedom of choice" in school assignments because it failed to produce any significant desegregation and failed to remove racial identification of schools. It charged the school board with "the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch," by developing a plan which "promises realistically to work *now.*" (Emphasis in original.)

Alexander v. *Holmes County Board of Education* (396 U.S. 19 (1969)) declared "all deliberate speed" no longer constitutionally permissible and said that "the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools."

Swann v. *Charlotte-Mecklenburg Board of Education* (402 U.S. 1 (1971)) noted that Federal district courts had broad equitable powers "to eliminate from the public schools all vestiges of State-imposed segregation," and that these powers include the use of mathematical ratios as starting points in shaping remedies and the assignment of students according to race. It also upheld the lower court's order to bus children to accomplish desegregation. Two "companion" cases to *Swann—Davis* v. *Board of School Commissions* (402 U.S. 43 (1971)) and *North Carolina State Board of Education* v. *Swann* (402 U.S. 43 (1971))—strengthened the meaning of the original case. According to one commentator on constitutional law:

> The *Swann* cases in effect hold that in many situations there will be no remedy for segregated schools other than busing. As the remedy becomes part of the right, any limitation on busing becomes a presumptive interference with the right to an integrated education. This merger of right and remedy is the main constitutional obstacle to antibusing legislation.[3]

Keyes v. *School District No. 1* (413 U.S. 189 (1973)) upheld busing in Denver, the first time the Supreme Court had so held outside the South. The Court also held that a systemwide remedy is appropriate if it is

[1] This summary of school desegregation cases is based upon "Court, Congress, and School Desegregation" by Robert B. McKay, director, Aspen Institute for Humanistic Studies, program on Justice, Society, and the Individual; he formerly was dean of the New York University School of Law. The article appeared in *School Desegregation: The Courts and Suburban Migration* published by the U.S. Commission on Civil Rights, 1976. For a fuller discussion of the cases, see pages 60–81.

[2] Ibid., p. 63.

[3] Ibid., p. 67.

determined that "an intentionally segregative policy is practiced in a meaningful segment of a school system."

In *Bradley* v. *School Board* (412 U.S. 92 (1974)) an evenly divided Supreme Court let stand an appeals court reversal of a district court's order for metropolitan desegregation in Richmond, Virginia, and its suburbs.

Milliken v. *Bradley* (418 U.S. 717 (1974)) reversed an appeals court affirmation of a district court's order granting metropolitan relief to school segregation in Detroit. The Supreme Court, in a 5 to 4 decision, held that sufficient grounds of discrimination or segregation, based on State action or segregative intention by suburban officials, had not been established that would warrant the imposition of a metropolitan desegregation plan.

Hills v. *Gautreaux* (425 U.S. 248 (1976)), a case involving housing discrimination in Chicago, established the policy that metropolitan remedies are permissible under certain circumstances.

In late December 1976 and early 1977 the Supreme Court of the United States decided school desegregation cases in Austin,[4] Indianapolis,[5] Omaha,[6] Milwaukee,[7] and Dayton.[8] These decisions and their subsequent interpretation by the lower courts have raised the question whether the Supreme Court is retreating from its long-espoused commitment to the right of school children to a desegregated education. To answer this question, it is first necessary to consider two cases, not involving school desegregation, upon which decisions in the above school cases are based, at least in part.

In June 1976 the Court ruled in *Washington* v. *Davis,* [9] an employment discrimination case, that for action by government officials to be held unconstitutional it must be shown to be intentionally discriminatory. An action which is racially neutral in intent, even if it has a discriminatory effect, is constitutionally permissible. This ruling was amplified in *Village of Arlington Heights* v. *Metropolitan Housing Development Corporation,* [10] a zoning case decided in January 1977, when the Court again said that proof of a racially discriminatory intent or purpose is required to show a violation of the equal protection clause of the 14th amendment. The Court, recognizing that it is often difficult to ascertain legislative or administrative intent, spelled out the kinds of evidence to which it would look in determining whether official action was tainted with discriminatory purpose. Such evidence would include the historical background of the challenged action (whether it reveals a series of actions taken for discriminatory purposes); the sequence of events leading up to the action (whether there were departures from the normal procedural sequence); legislative or administrative history (contemporary statements by members of the decisionmaking body, minutes of meetings, reports); and the impact of the official action (whether it falls more heavily on one race than another).

In both *Washington* and *Arlington Heights,* the Court pointed out that although it had long required proof of discriminatory purpose as the factor distinguishing *de jure* from *de facto* segregation, the lower courts had not always strictly adhered to that requirement. Therefore, beginning with the *Austin* case, the Court began to clarify for the lower courts the application of the intent requirement of *Washington* and *Arlington Heights* in school desegregation cases.

Development of the Intent Requirement

In *Austin Independent School District* v. *U.S.,* [11] the Supreme Court had before it the district court's remedial order, which had been upheld by the circuit court. Although the record was replete with evidence of intentional segregation, both the district court and the circuit court seemed to presume segregative intent from the school board's persistent use of a neighborhood assignment policy in a system with marked residential segregation. The Supreme Court vacated the circuit court's judgment and remanded the case for reconsideration in light of *Washington.* [12] Because the remand was without a majority opinion,

[4] Austin Independent School District v. U.S., 429 U.S. 990 (1976) [hereafter cited as Austin].
[5] Board of School Commissioners v. U.S., 429 U.S. 1068 (1977) [hereafter cited as Board of School Commissioners].
[6] School District of Omaha v. U.S., 433 U.S. 667 (1977) [hereafter cited as School District of Omaha].
[7] Brennan v. Armstrong, 433 U.S. 672 (1977) [hereafter cited as Brennan v. Armstrong].
[8] Dayton Board of Education v. Brinkman, 433 U.S. 406 (1977) [hereafter cited as Dayton Board of Education v. Brinkman].
[9] 426 U.S. 229 (1976). In this case certain hiring practices of the District of Columbia Police Department were challenged as racially discriminatory in violation of the 14th amendment.
[10] 429 U.S. 252 (1977). This case involved a challenge to the failure of the village to rezone a tract of land on which the corporation wished to build racially integrated low- and moderate-income housing.
[11] Austin Independent School District v. U.S., 429 U.S. 990 (1976).
[12] The Arlington Heights decision had not yet been handed down when Austin was decided; therefore, it is the only one of five cases considered here that was not remanded for consideration in light of that case.

the reasoning of the Court was not clear. However, the court of appeals, considering the case following the Supreme Court's remand, acknowledged:

> There is language in our *Austin II* [13] opinion that an official discriminatory intent adequate to support a finding of *de jure* segregation could be inferred solely from the school board's use of a neighborhood school policy for student assignment. . . .To the extent that *Austin II* can be so read, it is inconsistent with *Washington* v. *Davis* and *Arlington Heights.* The Supreme Court recognized this ambiguity in vacating our decision and remanding the case to us. *U.S.* v. *Texas Education Agency.* [14]

In reconsidering the evidence of intentional segregation in light of *Washington,* the appeals court reiterated its prior finding of intentional discrimination and made clear that its finding had not been based solely upon the school district's use of a neighborhood assignment policy but also upon "the taking of an extensive series of actions dating back to the early twentieth century that had the natural, foreseeable, and avoidable result of creating and maintaining an ethnically segregated school system."[15] The court then returned the case to the district court for consideration of an appropriate remedy. A petition by the school district for rehearing was recently denied by the circuit court. The district court has not scheduled a hearing on the remedies aspect of the case.[16]

Since the Supreme Court in remanding the *Austin* case did not address the deficiencies in the prior proceedings, it cannot be determined whether the circuit court correctly identified the aspect of the case that the Supreme Court found troublesome. If the circuit court has failed to identify the troublesome area, *Austin* may once again go to the Supreme Court for review. Until that happens, it is impossible to state with certainty whether the Court is carving out a new direction in imposing the requirement of proof of intent in school desegregation cases or whether, as stated in *Washington,* it is simply reiterating well-established principles to guide the lower courts.

Also vacated and remanded, without opinion, for review in light of *Washington* and *Arlington Heights* was the case of *Board of School Commissioners* v. *U.S.* [17] This Indianapolis school case came about when (1) the State failed to extend the boundaries of the Indianapolis School District (IPS) in the consolidation of the Indiana municipal government and various Marion County governmental units into a countywide government called Uni-Gov; and (2) officials confined all public housing projects, in which 98 percent of the occupants were black, to areas within the Indianapolis city limits as they existed prior to the expansion of the boundaries.

The appeals court approved the district court's finding that the location of housing projects by officials had caused and perpetuated segregation of black pupils in the Indianapolis school district. The court said that the record supported such a finding and showed a purposefully discriminatory use of State housing, although there was no elaboration of the evidence of purpose or intent.[18] On remand, the Seventh Circuit Court of Appeals agreed that there had been no previous showing of discriminatory intent in the failure of the general assembly to extend the city school boundaries when Uni-Gov was enacted[19] and that prior to *Washington* the interpretation of the law by lower courts was that no such showing was required. After remand by the Supreme Court, however, the necessity for such a showing was required, so the appeals court returned the case to the district court to consider whether State or school officials had intentionally discriminated against minority students. The appeals court gave the following guidance to the district court in making that decision:

> (1) Segregative intent need only be a motivating factor, not the sole factor, in the official decision(s);[20]
>
> (2) discriminatory purpose may be inferred from the totality of the circumstances; even where no official act is unmistakably based in a racial motive, a clear pattern of acts with a segregative effect may give rise to an inference of segregative intent;

[13] The case was twice before the court of appeals prior to the Supreme Court's remand; the judgment reviewed by the Court was rendered upon the appellate court's second consideration of the case.
[14] 564 F.2d 162, 169 (5th Cir. 1977).
[15] *Id.* at 170.
[16] Brian K. Landsberg, Counsel of Record, U.S. Department of Justice, telephone interview, Sept. 20, 1978.
[17] 429 U.S. 1068 (1977).
[18] *Id.* at 11, 18–24.
[19] The Court held, however, that the *de jure* segregation of students *within* the Indianapolis public schools is now the law of the case.
[20] The circuit court cited Arlington Heights for this proposition. However, as the Supreme Court makes clear in Arlington, proof that segregative intent is a motivating factor simply shifts the burden to the officials to show that the same official decision would have resulted even had the impermissible purpose not been considered; if they fail in that showing, plaintiffs' constitutional claim is established.

(3) it is not subjective but objective intent that is crucial; a presumption of segregative intent arises from acts with foreseeably segregative effects.[21]

The Court concluded that if the district court, applying these principles, finds that leaving the school boundaries intact was done intentionally to segregate minority students, then the court may fashion an interdistrict remedy. The district court did find intentional discrimination under these guidelines, but the ultimate decision is not final because the case is currently on appeal again before the circuit court.

Again, like *Austin,* the present posture of the *Indianapolis* case offers little insight into the Supreme Court's reason for remanding the case in light of *Washington* and *Arlington Heights.*

Two other Supreme Court remands are more insightful. In *School District of Omaha* v. *United States,* [22] the Court ruled that official action is not unconstitutional solely because of racially disproportionate impact. It vacated the appeals court's judgment approving an extensive desegregation plan, including systemwide student transportation, and returned the case for consideration in light of *Arlington Heights* and *Dayton.* On remand, the appeals court found:

> the evidence is clear that a discriminatory purpose has been a motivating factor in the school district's actions. . .because the natural and foreseeable consequence of the acts of the school district was to create and maintain segregation in five different areas, which evidence was not effectively rebutted by the school district.[23]

This finding appears to have satisfied the Supreme Court on the intent issue, because the Court denied the school district's petition for *certiorari* in February 1978.[24]

In the Milwaukee school case, *Brennan* v. *Armstrong,* [25] the Supreme Court observed that the court of appeals' opinion referred to an unexplained hiatus between the district court's specific findings of fact and its conclusion of intentional segregation in the Milwaukee school system. Since the remand of *Brennan* was based in part on *Arlington Heights,* there may be an inference that the Supreme Court concurred in the appeals court's observation. That inference is supported by proceedings in the case after the Supreme Court's remand. The court of appeals returned the case to the district court (without opinion), which then reopened the case for additional evidence to supplement and clarify the "hiatus" on the intent question. The district court has subsequently ruled, with the admission of additional evidence, that there was segregative intent and has held further hearings on the issue of "present effects." A ruling is awaited.

These cases indicate that the Supreme Court is adhering strictly in the area of school desegregation to its *Washington* holding. There is nothing in any of the Court's opinions or their application by lower courts that conclusively points to a shift in judicial philosophy.

As the Court noted in *Washington,* it has consistently required proof of intent to make out a case of *de jure* or officially imposed segregation, although the lower courts on occasion have departed from its precedents. It is important to recognize that all of the school cases arose in States that have no recent history of State-imposed segregation. Therefore, the plaintiffs in each case were required to show, and the trial courts to find, specific acts by school officials that were intentionally segregative before desegregative remedies could be imposed. The Supreme Court's insistence that only *de jure* segregation *(de facto* segregation caused or perpetuated by intentional State action) is actionable does not by itself, of course, signify a judicial sanctioning of school segregation.

The Court and Desegregation Remedies

More troublesome than the Court's adherence to the requirement of segregative intent is its decision in the Dayton school case.[26] The appeals court approved a desegregation plan involving districtwide racial distribution on the district court's finding of three separate and relatively isolated instances of intentionally discriminatory school board action. The Supreme Court held that the systemwide remedy

[21] U.S. v. Board of School Commissioners of the City of Indianapolis, Indiana, No. 75–1730 (D. Ind. Feb. 18, 1978), at 18–24.
[22] School District of Omaha v. U.S., 433 U.S. 667 (1977).
[23] U.S. v. School District of Omaha, 565 F. 2d 127, 128 (8th Cir. 1977).
[24] 46 U.S.L.W. 3521 (February 1978). The case was remanded by the appeals court to the district court for consideration of the appropriate remedy. The district court set aside most of November 1978 for hearing on the remedies aspect of the case. Kenneth B. Holm, Counsel of Record for School District of Omaha, telephone interview, Sept. 20, 1978.
[25] Brennan v. Armstrong, 433 U.S. 672 (1977).
[26] Dayton Board of Education v. Brinkman, 433 U.S. 406 (1977).

imposed by the circuit court was inconsistent with the extent of the constitutional violation, as there was no showing that the board's isolated acts had a systemwide segregative effect. On remand, the lower court was directed to fashion a remedy designed to eliminate the incremental segregation caused by the school officials' conduct.[27]

The extent of a constitutional violation is important because the remedy fashioned by the courts must be coextensive with the violation. The principle, enunciated in *Swann* v. *Charlotte-Mecklenburg Board of Education,* [28] that the remedy must be tailored to the violation has been reiterated in several cases following *Swann.*

The Court has struggled over the two decades since *Brown* [29] with the dilemma of which remedies are appropriate to alleviate unconstitutional school segregation. For a time after *Brown,* the Court was concerned that school systems establish neutral admissions policies that were in no way based upon the race of students. When it became apparent that racial segregation could be perpetuated in spite of facially neutral admissions policies, the Court reevaluated the efficacy of that remedy. In *Green* v. *County School Board,* [30] the Court announced that the duty of school boards guilty of *de jure* segregation was henceforth an affirmative one, to eliminate all vestiges of State-imposed segregation. Both *Swann* and *Keyes* [31] stand for the proposition that when segregation is *de jure,* the obligation of school authorities and, in the event of their default, the courts is to fashion a plan which fulfills this affirmative duty.

Some observers have read the *Dayton* decision to mean that the Court is now backing away from the concept of affirmative duty to desegregate. It is true that the "incremental segregative effects" analysis of *Dayton* is different in kind from the affirmative duty concept of *Green, Swann,* and *Keyes.* The former calls for the untangling of many complicated and interwoven chains of cause and effect to measure that degree of segregation caused by school officials' unconstitutional action. This litigation process must of necessity be costly and time-consuming to litigants and to the courts, and the degree of desegregation that follows may not, in many instances, be substantial.

On the other hand, the imposition of an affirmative duty to desegregate flows naturally from the finding of a *de jure* system. No metaphysical exercise is necessary to determine the extent of segregation; the system is deemed to be segregated throughout. The duty then is to design a remedy consistent with the mandate of *Swann, Green,* and *Keyes.* Although the imposition of an affirmative duty does not mean that racial balance is required in all schools in a system, it does mean that from a multitude of desegregative techniques, a plan must be developed that makes use of techniques[32] most likely to achieve systemwide desegregation.

Dayton provides that in school systems in which isolated acts of intentional discrimination have caused some degree of segregation, school officials are required only to eliminate that amount of segregation that results from their actions. To superimpose the *Dayton* analysis onto systems that are as a whole *de jure,* however, negates the principles of *Green, Swann,* and *Keyes.*

If the Court intends a shift from the requirement that school officials in dual systems eliminate all vestiges of officially caused segregation (taking account, as in *Swann* and *Keyes,* that when a *system* is *de jure,* all existing segregation is deemed to result from official, intentional segregation), the Court has not enunciated such a shift. In late July 1978, the sixth circuit, reviewing an order by the district court finding that the school board was not guilty of intentional segregation and relieving the board from previous desegregation orders, reversed and directed that a systemwide desegregation plan previously approved by the circuit court be reinstated. In concluding that the Dayton school system had been guilty of *de jure* segregation and had operated a dual school system prior to *Brown,* the circuit court relied in part on two presumptions: (1) the *Omaha* presumption that acts which have a foreseeably segregative effect are deemed to have been intentionally discriminatory and (2) the *Keyes* presumption that when intentional segregation exists in a meaningful portion of a school district, segregation in other parts of the district was also intentional. The

[27] The Supreme Court ordered the Austin, Omaha, and Milwaukee cases to be reconsidered by the lower courts in light of Dayton.

[28] 402 U.S. 1 (1971) [hereafter cited as Swann].

[29] 347 U.S. 483 (1954).

[30] 391 U.S. 430 (1968).

[31] Keyes v. School District No. 1, 413 U.S. 189 (1973). In this Denver school case, the Supreme Court maintained that in districts in which a substantial portion of the school district is intentionally segregated by official action, the system as a whole is *de jure.*

[32] The desegregative techniques referred to are pairing, magnet schools, redrawing attendance zones, placement of new construction, and busing.

court further found that the dual system had not been dismantled since *Brown,* even though for 24 years the school system in Dayton had been under a constitutional duty to desegregate. The court relied for this finding on evidence of racially motivated practices concerning faculty and student assignment, school construction and site selection, and grade structure and reorganization, which practices contributed to the continuation of a segregated system. Therefore, a systemwide remedy was deemed appropriate by the court.[33]

The sixth circuit's July 1978 opinion is especially important in that it reflects a conviction that the law applicable to school cases was not changed by the Supreme Court's remand of *Dayton.* As far as the circuit court is concerned, *Keyes* is still controlling and the "incremental segregative effects" test is inapplicable to a *de jure* system.

If the Supreme Court then allows the systemwide remedy to stand in *Dayton,* it will reflect an intention to follow the precedents of *Green, Swann,* and *Keyes.* Until that case or one like it is again before the Court, the real meaning of *Dayton* and those cases remanded in light of *Dayton* will remain unclear.

Metropolitan Desegregation

In *Milliken* v. *Bradley,* [34] the Supreme Court considered, for the first time, the question of when a remedy mandating interdistrict desegregation was appropriate. Reiterating its holding in *Swann,* [35] the Court laid down the following guidelines for the imposition of multidistrict relief:

> [I]t must first be shown that there has been a constitutional violation within one district that produces a significant segregative effect in another district. Specifically, it must be shown that racially discriminatory acts of the state or local school districts, or of a single school district have been a substantial cause of interdistrict segregation. Thus, an interdistrict remedy might be in order where the racially discriminatory acts of one or more school districts caused racial segregation in an adjacent district, or where district lines have been deliberately drawn on the basis of race. In such circumstances an interdistrict remedy would be appropriate to eliminate the interdistrict segregation directly caused by the constitutional violation. Conversely, without an interdistrict violation and interdistrict effect, there is no constitutional wrong calling for an interdistrict remedy.[36]

Since *Milliken,* two cases involving interdistrict relief have been before the Court. In *Evans* v. *Buchanan,* where dual school systems were statutorily compelled at the time of *Brown,* the lower court's finding that the purposeful segregation within Wilmington city schools affected the racial composition of county schools so that an interdistrict remedy would be appropriate[37] was summarily affirmed by the Supreme Court with only three members dissenting.[38]

By contrast, in *Board of School Commissioners of the City of Indianapolis* v. *U.S.* [39] the Supreme Court vacated an order for interdistrict relief and remanded the case for reconsideration in light of *Washington* and *Arlington Heights.*

In July 1978, the district court ordered the limited interdistrict transfer of black students to schools in the townships of Decatur, Franklin, Lawrence, Perry, Warren, Wayne, the school city of Beach Grove, and the school town of Speedway. The court also ordered the filing of school desegregation plans by the Indianapolis Public School District by August 1978. In addition, the court ordered the school commission to implement comprehensive teacher training programs. The court also issued an injunction stopping further low-income building activities by the housing authority of the city of Indianapolis and the Lockefield Gardens Housing Project, with the exception of those intended for the elderly.[40] The school district did file a plan that included inservice training, but no final desegregation plan has yet been adopted as hearings continue on the scope of the remedy.

Another case, sometimes discussed as one in which interdistrict relief was obtained, is the Louisville school case.[41] In reality, however, Louisville was not a multidistrict case, since by legislation the county and city districts were combined before any interdis-

[33] Brinkman v. Gilligan, 78–3060 (July 27, 1978). An application for stay was later denied, 47 U.S.L.W. 3126, Sept. 12, 1978.

[34] 418 U.S. 717 (1974). In this case the court vacated a judgment imposing an interdistrict remedy on the grounds that there was no showing that intentional segregation in one district had interdistrict effects.

[35] 402 U.S. 1 (1971).

[36] 94 S. Ct. 3112, 3127 (1974).

[37] 393 F. Supp. 428 (D. Del. 1975).

[38] 423 U.S. 963 (1975). In September 1978, application by the Delaware State Board of Education and 8 suburban school districts for a stay of the implementation of a desegregation plan involving Wilmington and 10 surrounding districts was denied. 47 U.S.L.W. 3127, Sept. 12, 1978.

[39] 429 U.S. 1068 (1977).

[40] U.S. v. Board of School Commissioners of Indianapolis, No. IP 68–C–225 et al., S.D., Ind. (July 11, 1978).

[41] Newburg Area Council, Inc. v. Board of Education of Jefferson Co., Ky., 510 F.2d 1358 (6th Cir. 1974), *cert. denied,* 427 U.S. 931 (1975).

trict order was ever implemented, thereby rendering moot the issue of the validity of interdistrict relief in that case.

Since the Court has only had limited occasion to apply its *Milliken* holding to date, it remains to be seen whether interdistrict relief will be generally approved by the Court in those circumstances where it appears appropriate. At this juncture, therefore, the likelihood of the use of multidistrict remedies to desegregate major metropolitan areas can be nothing more than a supposition.

Resegregation

The question of the duration of desegregation and the possibility of resegregation has been and remains another problem involved in the school desegregation process. In *Swann* the Supreme Court first addressed this issue and stated:

> Neither school authorities nor district courts are constitutionally required to make year-by-year adjustments of the racial composition of student bodies once the affirmative duty to desegregate has been accomplished and racial discrimination is eliminated from the system. This does not mean that Federal courts are without power to deal with future problems, but in the absence of a showing that either school authorities or some other agency of the state had deliberately attempted to fix or alter demographic patterns to affect the composition of the schools, further intervention by a district court should not be necessary.[42]

The issue of duration was again addressed by the Court in *Pasadena City Board of Education* v. *Spangler.* [43] In this case the Court held that a school district having met the original order to implement a desegregation attendance plan, unless ordered by the original district court to do so, need not submit annual attendance plans.

Although some view this decision as an allowance by the Court for resegregation of school systems, this Commission does not find that the Court's limited handling of this issue reflects a shift from its commitment to school desegregation. Further guidance on the duration of desegregation plans can be expected in future cases.

Minority Concerns

The Supreme Court's present position on school desegregation cases has led minority communities[44] to view the Court as increasingly "recalcitrant" in its posture toward desegregation.[45] The perception is that the Court has hampered minority access to the courts to assert their equal protection rights in education. It has become a matter of extensive time and cost for minorities to bring a legally sufficient case to court in light of the complex proof requirements.[46] Some observers regard this as a conscious effort on the part of the Supreme Court to create impediments to obtaining equal educational opportunities. Although there is agreement on the interpretation of the Court's activities, there are differences of opinion on the reasons for the Court's position. One observer has concluded that the Court is aware of the tenor of the public and is confronted with the growing doubt whether the difficulties of school desegregation are matched by the potential benefits.[47] Despite such fears, few minority leaders expect the Court to reverse the strong mandate of *Brown.*

In sum, these recent cases do not undermine the principles that have been carved out over two decades of school litigation. The distinction between *de jure* and *de facto* segregation remains, and it is only *de jure* segregation that is actionable. Where *de jure* acts of segregation have less than systemwide impact, only the incremental effects of these acts must be eliminated. But, in a *de jure* system, the duty of school officials and lower courts is to design plans that achieve the maximum practicable desegregation now.

[42] Swann, 402 U.S. at 31–32.

[43] 427 U.S. 424 (1976).

[44] John Waubaunsee, director, Education Litigation Unit, Native American Rights Fund, Denver, telephone interview, Mar. 30, 1978; Jack Greenberg, director, NAACP Legal Defense and Educational Fund, New York City, telephone interview, Mar. 31, 1978; Peter Roos, director, Education Litigation Unit, Mexican American Legal Defense and Education Fund, San Francisco, telephone interview, Mar. 31, 1978; Robert Herman, legal director, Puerto Rican Legal Defense and Education Fund, New York City, telephone interview, Mar. 31, 1978; L. Ling-Chi Wang, Asian Studies Center, University of California, Berkeley, telephone interview, Apr. 3, 1978; Nathaniel Jones, general counsel, NAACP, New York City, telephone interview, Apr. 5, 1978.

[45] Greenberg Interview.

[46] Greenberg, Jones, and Roos Interviews.

[47] Greenberg Interview.

Chapter 2

Congress and School Desegregation

Article I, Section I, of the Constitution provides, "All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives." The Congress not only enacts the laws of the Nation, it also holds the national purse strings. Both the legislative and the spending powers of the Congress have been brought to bear in the public school desegregation process.

A decade after the Supreme Court's *Brown* decision, the Congress enacted legislation to strengthen the implementation of that decision. Title IV of the Civil Rights Act of 1964 authorizes Federal assistance to school boards, school districts, and other governmental units legally responsible for the operation of public schools to aid these bodies in their desegregation efforts. The Federal aid may be in the form of training or technical or financial assistance.[1] Title VI of the same act prohibits discrimination on the basis of race, color, or national origin by recipients of Federal funds. If a Federal agency should find illegal discrimination as a result of a hearing it is authorized to terminate or refuse funding or use other legal means to ensure compliance with the provisions of Title VI.[2]

In recent years, legislation dealing with school desegregation has been proposed to limit student reassignment and busing for desegregation purposes. Passage of some of this legislation has severely limited the ability of the executive branch to carry out its desegregation enforcement responsibilities.[3]

Past Congressional Actions

Congressional debate over busing of pupils for desegregation purposes heightened in 1974, particularly among Members representing districts where desegregation had become a major issue. Since 1974 Congress has passed the Esch, Byrd, and Eagleton-Biden amendments to curtail or prohibit pupil busing for desegregation.

The Esch amendment, introduced by Representative Marvin L. Esch of Michigan and enacted as part of the Education Amendments of 1974, prohibited any Federal agency from ordering the implementation of a desegregation plan requiring the transportation of students beyond the schools closest or next closest to their homes that provide the appropriate grade level and type of education for those students.[4]

The Byrd amendment, introduced by Senator Robert C. Byrd of West Virginia, was first adopted by Congress in 1975 and reenacted in 1976. It went beyond the provisions of the Esch amendment by forbidding the use of appropriated funds, directly or indirectly, to require the transportion of any student to a school other than the one that is nearest the

[1] Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 246 (codified at 42 U.S.C. §§2000c-2000c-9 (1970 and Supp. V. 1975).

[2] Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 252 (codified at 42 U.S.C. §§2000d-2000d-6 (1970)).

[3] See discussion in chapter 3 of this report.

[4] The Esch amendment was enacted as Title II of the Education Amendments of 1974 and is found at Pub. L. No. 93-380, 88 Stat. 517, 20 U.S.C. §§1701-1721 (Supp. V. 1975). In pertinent part it provides:

> No court, department, or agency shall. . .order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student. 20 U.S.C. §1714(a) (Supp. V. 1975).

The broad language of the Esch amendment was narrowed, however, by another provision of the 1974 act, 20 U.S.C. §1701(b) (Supp. V. 1975) which reads:

> the provisions of this chapter are not intended to modify or diminish the authority of the courts of the United States to enforce fairly the Fifth and Fourteenth Amendments to the Constitution of the United States.

student's home and that offers the courses of study pursued by the student.[5] Subsequent to its enactment, the Departments of Justice and HEW determined that interpreting the Byrd amendment to limit the transportation of students to preclude HEW from taking necessary action to desegregate schools could not be constitutionally reconciled with the Title VI prohibition against discrimination by recipients of Federal funds. Rather, the Byrd amendment was interpreted to apply solely to the transportation of students under a remedial plan, as opposed to the *original* assignment plan, thus empowering HEW to continue to withhold funds from segregated districts operating a neighborhood assignment plan.[6]

With some members alleging that the position of HEW and the Department of Justice distorted the legislative intent of the Byrd provision, Congress passed an antibusing amendment to the FY '78 Labor-HEW Appropriations Act, frequently referred to as the Eagleton-Biden amendment.[7] This amendment, introduced by Senators Thomas F. Eagleton of Missouri and Joseph R. Biden of Delaware, forbids HEW to require, directly or indirectly, the transporting of any student to paired or clustered schools. Its effect is to prohibit the termination of administrative funds in desegregation cases in which compliance with Title VI would require transportation of students beyond their neighborhood school. In such an instance, HEW is prohibited from proceeding to compel compliance and must refer the case to the Justice Department for suit.

This Commission opposed the Eagleton-Biden amendment, arguing that its adoption would impair the effectiveness of Title VI by denying to the Federal Government the important administrative remedy of cutting off Federal funds to unconstitutionally segregated schools.[8] Moreover, the Commission expressed grave concern that the net result of the enactment of Eagleton-Biden would be an actual violation, on the part of the Federal Government, of the fifth amendment and Title VI.[9] A situation could arise where the Department of Justice lacked the necessary resources to meet the increased burden of litigation resulting from the denial of the fund termination remedy. Thus, without an effective administrative remedy by HEW and without the necessary staff and resources by the Justice Department to compel compliance through the courts, the Federal Government could find itself in the position of funding and supporting unconstitutionally discriminatory conduct in *violation* of Title VI and the fifth amendment.

Despite these and other objections, the Congress adopted and the President signed into law the FY '78 Labor-HEW appropriations bill containing the Eagleton-Biden amendment. In signing the measure, President Carter acknowledged that the funding limitations imposed by the Eagleton-Biden amendment "may raise new and vexing constitutional questions, adding further complexities to an already complex area of the law."[10]

In May 1978, this Commission wrote to President Carter reiterating its concern that although the Eagleton-Biden amendment had become law, the Congress had neither authorized the Justice Department to hire staff nor appropriated the additional resources necessary to litigate the school desegregation cases referred to it by HEW. Once again, the President was urged by the Commission to act to ensure that the implementation of the Eagleton-Biden prohibition would not result in the unconstitutional support of discriminatory programs.[11]

A suit challenging the constitutionality of the Esch and Eagleton-Biden amendments was brought in the United States District Court for the District of Columbia on behalf of a group of public school

[5] The Byrd amendment was adopted as part of the Labor-HEW Appropriations Act, 1976, Pub. L. No. 94-206, §209, 90 Stat. 22 (1976); reenacted as Labor-HEW Appropriations Act, 1977, Pub. L. No. 94-439, §208, 90 Stat. 1434 (1977).

[6] Griffin Bell, Attorney General, letter to Joseph A. Califano, Secretary of HEW, May 25, 1977. See also memorandum for the Attorney General, prepared by Assistant Attorney General Drew Days III, found at 123 Cong. Rec. S10908 (daily ed. June 28, 1977).

[7] The Eagleton-Biden amendment was a provision added in Senate committee to H.R. 7555, a bill providing appropriations for the Department of Labor and HEW for fiscal year 1978. Both the Senate and the subsequent conference committee retained the amendment. The Eagleton-Biden language was enacted into law as part of H.J. Res. 662, a resolution making continuing appropriations for fiscal year 1978. H.J. Res. 662 incorporated by reference the provisions of the Conference Report to H.R. 7555. It can be found at Pub. L. No. 95-205, §101, 91 Stat. 1460 (1977). See also H.R. 7555, §208, Senate version. The Eagleton-Biden amendment provides:

> None of the funds contained in this Act [HEW's Appropriations] shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, in order to comply with Title VI of the Civil Rights Act of 1964. For the purposes of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization or the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

[8] Arthur S. Flemming, Chairman, U.S. Commission on Civil Rights, testimony before Senate Judiciary Committee, 95th Cong., 1st sess., July 22, 1977.

[9] Arthur S. Flemming, Chairman, U.S. Commission on Civil Rights, letter to President Carter, May 16, 1978.

[10] 13 Weekly Comp. of Pres. Doc., 1839-1840 (Dec. 9, 1977).

[11] Flemming letter to President Carter, May 16, 1978.

students who attended schools receiving Federal support.[12] The plaintiffs, represented by leading civil rights advocates, alleged that the Esch and Eagleton-Biden provisions were unconstitutional on their face as they were "desegregation-inhibiting measures that will inevitably bring the Federal Government into a position of having to support segregated educational systems."[13]

However, Judge John J. Sirica held that neither the Esch nor the Eagleton-Biden amendment was unconstitutional on its face. In reaching this conclusion, the court noted two avenues through which HEW could secure compliance with Title VI by recipients of Federal funds:

> First, through the decision of the Secretary of HEW to terminate funding after a hearing on the record and administrative appeal; second, through referral to the Department of Justice of cases evidencing a violation of Title VI.[14]

Only the first enforcement option is affected by the Esch and Eagleton-Biden amendments. The second litigation option still remains.

The court stated, "Significantly, nothing in the Esch and Eagleton-Biden amendments prevents HEW from pursuing the referral alternative in cases where, in the agency's judgement, transportation remedies are warranted."[15] Although the court held that the Esch and Eagleton-Biden amendments were not unconstitutional on their face, it left open the possibility of subsequent court challenges that the amendments were unconstitutional as applied.[16] It may be noted that language similar to that of the Eagleton-Biden amendment was included in the FY '79 Labor-HEW Appropriations Act.

Recent Congressional Legislation

School desegregation has been the subject of numerous measures introduced during the past 2 years. Much of the legislation sought to prevent Federal agencies from directing, permitting, or withholding funds for the purpose of requiring or encouraging the use of transportation for desegregation of schools. Some of the legislation sought to limit the courts' ability to impose the use of transportation as a desegregation remedy and to restrict the use of affirmative action in the placement of teachers and other school personnel.

Senator Jesse A. Helms of North Carolina introduced S. 2017, the "Freedom of Choice in Education Act."[17] Its purpose was to make court enforcement of desegregation cases uniform by (1) setting standards and definitions relative to a unitary school system;[18] (2) providing objective standards for statewide postsecondary educational systems; and (3) relieving the congestion of court calendars by providing for the release of Federal jurisdiction over desegregated public schools and Statewide postsecondary education systems. The bill called for a jury determination as to whether a public elementary or secondary school system meets the definition of a unitary school system. Once this jury finding was made, the bill provided that the Federal courts would not have jurisdiction and HEW would not have the authority to order: (1) the assignment of students, (2) the assignment of faculty or administrative staff, (3) the expenditure of funds for construction or maintenance, or (4) regarding the accreditation of any institution within the system.[19] After a school district had operated a unitary school system for a minimum of one school year, the system would be released from the jurisdiction of the Federal district court or appeals court in matters relating to desegregation. S. 2017 died when the Congress adjourned in October 1978.

H.R. 392 was proposed by Representative Marjorie S. Holt of Maryland. It would have eliminated the jurisdiction of any United States court to require that pupils be assigned to particular schools on the basis of their race, sex, religion, or national origin. The bill also would have prohibited the withholding of Federal financial assistance to induce the assignment of pupils to a particular school on the same basis.[20] H.R. 392 died in committee when the 95th Congress adjourned.

[12] Brown v. Califano, No. 75–1068 (D.D.C., July 17, 1978) (order denying motion for declaratory and injunctive relief).
[13] *Id.* at 2.
[14] *Id.* at 4 (citing to 45 C.F.R. §§80.8–10 (1977).
[15] *Id.* at 5.
[16] *Id.* at 12–13; Judge John Sirica noted: "Should further proceedings in this case reveal that the litigation option left undisturbed by these provisions cannot, *or will not,* [original emphasis] be made into a workable instrument for effecting equal educational opportunities, the Court will entertain a renewed challenge by plaintiffs on an as applied basis."
[17] S. 2017, 95th Cong., 1st sess., 123 Cong. Rec. S13733 (Aug. 4, 1977).
[18] A unitary school system was referred to in Green v. County School Board as a "system in which racial discrimination would be eliminated root and branch." 391 U.S. 430, 438 (1968).
[19] 123 Cong. Rec. S13730 (daily ed. Aug. 4, 1977). (Remarks of Sen. Helms upon the introduction of S. 2017).
[20] H.R. 392, 95th Cong., 1st sess., 123 Cong. Rec. H191 (Jan. 6, 1977).

Other Legislation

Representative James M. Collins of Texas offered an antibusing amendment to H.R. 12005, a bill authorizing appropriations for the Department of Justice for fiscal year 1979. The amendment stated:

> No sums authorized to be appropriated by this Act shall be used to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.[21]

If ultimately adopted and enacted into law, the Collins amendment would have been subject to constitutional challenge. Given the reasoning offered by Judge Sirica in *Brown* v. *Califano,* the Collins amendment might well have been unconstitutional, as it would have denied the remedy of litigation to enforce Title VI and left no other means to enforce its provisions.[22] On October 14, 1978, however, a House and Senate conference committee eliminated the Collins amendment from the Justice Department's 1979 appropriations bill, which it approved on that date.[23]

Senators William V. Roth and Joseph R. Biden, Jr., of Delaware introduced S. 1651, a bill dealing with the jurisdiction of Federal courts and the standards to be applied by those courts in formulating remedies:[24]

> S. 1651 prohibits Federal courts from ordering the transportation of students on the basis of race, color or national origin unless the court finds that a discriminatory purpose in education was a principal motivating factor in the constitutional violation by the schools. If this purpose is found, S. 1651 requires the busing to be limited to that which is reasonably necessary to adjust the student composition to what it would have been had the constitutional violation not occurred.[25]

In introducing the measure, which was reported to the Senate for consideration by the Senate Judiciary Committee on September 21, 1977, Senator Roth said that it was drafted to accomplish two objectives: "first it should be constitutional; second, it should minimize court-ordered busing without sacrificing progress toward elimination of discrimination in our public schools."[26] This Commission observed that the measure deviated from established Supreme Court precedent.[27]

The deviation in one direction would have diminished the nature and extent of the constitutional violation of school segregation, thereby reducing the need for student transportation. Attorney General Griffin Bell, in a letter to Judiciary Committee Chairman James Eastland, said:

> The subject of school desegregation, and the construction of remedies necessary to secure the constitutional rights of school children, is a subject which is of national significance. The Court's recent action in the *Dayton* case provides an important guide for lower courts to follow, and attempts to clarify several issues in this area. In the view of this Department, the enactment of this legislation would, without adding significant substance to already existing legal standards, unnecessarily and detrimentally complicate the area of school desegregation, generate unnecessary litigation, and unconstitutionally delay, in some instances, the vindication of constitutional rights. Accordingly, we oppose the enactment of the bill.[28]

The White House press secretary said of S. 1651:

> The President. . .concurs with the Attorney General. He does not support the bill. He believes the bill is (1) unnecessary and undesirable because recent Supreme Court decisions, particularly *Dayton,* achieve substantially the goals the bill seeks to achieve. (2) also, the bill's attempt to codify the decisions has ambiguities which will create unnecessary delays in the desegregation process. This is based on an opinion from the Attorney General with which the President concurs.[29]

Another potentially important school desegregation measure was introduced by Representative Robert S. Walker of Pennsylvania and defeated in 1977. The Walker amendment would have prohibited

[21] 124 Cong. Rec. H7403 (daily ed. July 26, 1978).
[22] 124 Cong. Rec. H13020 (daily ed. Oct. 14, 1978); Congressional Quarterly Weekly Report, Oct. 21, 1978, p. 3053.
[23] Brown v. Califano, No. 75–1068 (D.D.C., July 17, 1978) (order denying motion for declaratory and injunctive relief).
[24] S. 1651, 95th Cong., 2d sess., 123 Cong. Rec. S9227 (daily ed. June 9, 1977).
[25] "Transportation as a Remedy in School Desegregation," S. Rep. No. 95–443, 95th Cong., 1st sess., 17–18 (1977).
[26] 123 Cong. Rec. S9227 (daily ed. June 9, 1977) (remarks of Senator Roth upon introducing S. 1651).
[27] U.S., Commission on Civil Rights, memorandum on S. 1651, Aug. 4, 1977.
[28] Griffin Bell, Attorney General, letter to Senator James Eastland, July 1977, as cited in S. Rep. 95–443, 95th Cong., 1st sess. 24 (Sept. 21, 1977).
[29] Statement from the White House as cited in Senate Report No. 95–443, 95th Cong. 1st sess. 4 (1977).

HEW from ordering the use of any ratio, quota, or numerical requirement in education matters, even if the Department found that a recipient discriminated against females or minorities. It drew no distinction between the types of remedies that could be used to correct proven discrimination as opposed to affirmative action measures undertaken voluntarily where there may not have been any such proof. Reintroduced in June 1978 as an amendment to the FY '79 appropriations for the Department of Labor and HEW, it was deleted from that bill by a House-Senate conference committee in mid-October 1978.[30]

In August 1978, the Senate debated legislation to extend the Elementary and Secondary Education Act for the next 5 years. The act provides Federal aid for disadvantaged children and school districts. Senators Roth and Biden introduced an amendment to this legislation that would have directly affected desegregation by forbidding Federal judges from ordering pupil transportation unless there was evidence of intentional discrimination. Senators on both sides of the issue called the amendment the most far-reaching antibusing measure to receive serious consideration in the Senate, but some pointed out that it was probably unconstitutional. The amendment was tabled, thus killing it, at least for the present.[31]

The 95th Congress also considered tuition tax credit legislation that could have had an important, though indirect, bearing on school desegregation efforts. The purpose of such legislation was to grant tax relief for tuition paid by parents whose children attend public or private colleges and private elementary, secondary, or vocational schools. The bills that were introduced varied in the level and kind (public or private) of education to which the credit would be applied and in the amount of credit allowed.

Both the House and Senate approved tuition tax credit legislation, though different in provision. The House version, H.R. 12050, adopted June 1, 1978, provided a tax credit of up to $100 for each college student and $50 for private elementary and secondary school students.[32]

The Commission opposed this measure on the grounds that "it would unconstitutionally subsidize private schools which have been established to circumvent the desegregation of public schools."[33]

The Senate version permitted a credit of 50 percent of tuition and fees, with a maximum credit of $250 ($500 as of October 1, 1980), for each child attending college or a postsecondary vocational school.[34] The Senate specifically rejected language that would have extended the tax credit for attendance at private elementary and secondary schools.[35] Such legislation involves the constitutional question of whether it violates the first amendment's requirement of separation of church and State.[36] In any event, the final tax legislation that Congress passed in mid-October 1978 contained no tuition tax credits.[37]

The issue of school desegregation, particularly the role of pupil transportation, has provoked sharp and prolonged debate in Congress in recent years. Numerous Members of Congress have consistently opposed legislation to limit desegregation efforts. Congressman Edward R. Roybal of California objected to an antibusing amendment on the grounds that "passage of the amendment would, in effect, move us a long way toward repealing Title VI of the Civil Rights Act of 1964, particularly as it applies to education."[38] Congressman Parren S. Mitchell of Maryland, Chairman of the Congressional Black Caucus, stating his objection to an antibusing measure, said, "I oppose this [Mottl] amendment, of

[30] The amendment is found at 124 Cong. Rec. H537 (daily ed. June 13, 1978) and provides:

> No part of any appropriations contained in this Act may be obligated or expended in connection with the issuance, implementation, or enforcement of any rule, regulation, standard, guideline, recommendation, or order which includes any ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex and which requires any individual or entity to take any action with respect to (1) the hiring or promotion policies or practices of such individual or entity; or (2) the admissions policies or practices of such individual or entity.

According to the Department of Justice, the Walker amendment "is not necessitated by, or even consistent with the Supreme Court decision in Regents of the University of California v. Bakke" and "could significantly undercut the Federal civil rights enforcement effort." Benjamin R. Civiletti, Acting Attorney General, letter to Senator Warren G. Magnuson, July 14, 1978.

[31] 124 Cong. Rec. S14079–14094 (daily ed. Aug. 23, 1978).

[32] 124 Cong. Rec. H4799 (daily ed. June 1, 1978). The credits would rise to $150 in 1979 and $250 in 1980 for college students and $100 in each year for private elementary and secondary students.

[33] Arthur S. Flemming, Chairman, U.S. Commission on Civil Rights, letter to Congresswoman Shirley Chisholm, May 16, 1978. The Commission further stated:

> Enactment of legislation authorizing tax credits for tuition paid to private elementary and secondary schools which are recognized as tax-exempt organizations under the Internal Revenue Code would effectively increase Federal support of school segregation in direct violation of the Constitution.

[34] 124 Cong. Rec. S13387 (daily ed. Aug. 15, 1978). College students filing their own tax returns could claim the credit for themselves.

[35] 124 Cong. Rec. S13359 (daily ed. Aug. 15, 1978).

[36] S. Rep. 95–1265 (Oct. 2, 1978); H. Rep. 95–1682 (Oct. 3, 1978).

[37] 124 Cong. Rec. S19141–19144 (daily ed. Oct. 14, 1978).

[38] 123 Cong. Rec. H6048 (daily ed. June 16, 1977) (Remarks of Rep. Roybal on the Mottl Amendment to H.R. 7555, Labor-HEW Appropriations bill for fiscal year 1978).

course, but this is an excellent time to let 25 million Black Americans know things have not changed."[39]

Senator Warren G. Magnuson of Washington opposed an antibusing amendment proposed by Senator Helms on the grounds that "it goes way too far, and it would probably stop HEW from keeping any kind of records at all in order that they might do what Congress and the courts have told them to do, enforce the civil rights legislation."[40]

This Commission is disturbed about the recent direction of Congress in the area of school desegregation. The Commission opposed the Esch, Byrd, and Eagleton-Biden amendments, which the Congress approved, as it has consistently opposed all legislation, including proposed constitutional amendments, that are designed to weaken in any way the rights of citizens under the 14th amendment of the Constitution as interpreted by the Supreme Court in *Brown.* [41] Further, the Commission reiterates its concern over the tendency of Congress to deal with major, substantive issues involving fundamental constitutional rights by attaching riders to appropriations bills. This practice deprives substantive congressional committees of thorough deliberations of such issues and is inappropriate for discussing matters of such importance.[42]

In enacting the Esch, Byrd, and Eagleton-Biden amendments, the legislative branch has undermined the ability of the executive and judicial branches to guarantee the Nation's children and young people their constitutional rights. It has thus acted against widely accepted civil rights goals and contributed to a lessening of the national will with respect to equal rights in the vital area of public education. As the Commission testified, "S. 1651 is but one in a series of congressional proposals and enactments which threaten to reverse the Nation's progress in achieving equal educational opportunity for all children."[43]

[39] 123 Cong. Rec. H6050 (daily ed. June 16, 1977).
[40] 124 Cong. Rec. S10885 (daily ed. June 16, 1977).
[41] Arthur S. Flemming, Chairman, U.S. Commission on Civil Rights, letter to Senator Hubert Humphrey, Sept. 23, 1975.
[42] See U.S., Commission on Civil Rights, *The State of Civil Rights: 1977* (1978), p. 24.
[43] Arthur S. Flemming, Chairman, U.S. Commission on Civil Rights, testimony before Senate Judiciary Committee, 95th Cong., 1st sess., July 22, 1977. The proposal died in committee when the Congress adjourned in October 1978.

Chapter 3

The Department of Health, Education, and Welfare and School Desegregation

Article II of the Constitution of the United States reads in part, "The Executive power shall be vested in a President of the United States of America." The Department of Health, Education, and Welfare (HEW), created in 1953,[1] is the largest of 12 executive departments. Its mission is to promote the health of all Americans, ensure equal access to quality education, and support a variety of human services programs.[2]

In the assignment of civil rights responsibilities, HEW, through its Office for Civil Rights (OCR), is the Federal agency with primary responsibility for ensuring equal educational opportunity for all students in the Nation's public schools.[3] This section reviews recent developments concerning HEW's school desegregation enforcement effort, presents a brief analysis of the latest HEW data on school desegregation, and discusses HEW's enforcement of bilingual education rights.

Desegregation Enforcement

The Federal Government's principal tool to enforce desegregation of elementary and secondary schools is Title VI of the Civil Rights Act of 1964.[4] Under Title VI, the Office for Civil Rights is responsible for monitoring federally-funded public elementary and secondary school districts, eliminating all vestiges of unlawful discrimination, and ensuring equal educational opportunities.[5] This responsibility is carried out through surveying school districts and individual schools annually or biannually, conducting compliance reviews of school districts, investigating individual complaints, negotiating corrective action, and bringing fund termination proceedings against noncomplying districts.[6]

Shortly after taking office in January 1977, President Carter laid the groundwork for increased Federal efforts to assure equal educational opportunity when he told HEW employees:

> I'm committed. . .to complete equality of opportunity in our Nation, to the elimination of discrimination in our schools, and to the rigid enforcement of all Federal laws. There will never be any attempt made while I'm President to weaken the. . .provisions of the great civil rights acts. . . .[7]

In the same week, HEW Secretary Joseph Califano, Jr., spoke of "rekindling the commitment of the Department. . .to forceful and fair enforcement of the civil rights laws."[8] He specifically warned schools that "to ensure compliance. . .we will order funds cutoffs if we must."[9]

In March 1977 the General Accounting Office (GAO) reported that numerous problems hampered OCR's Title VI enforcement effort. These included:

> lack of a comprehensive and reliable management information system; lack of uniform policy guidelines and compliance standards; failure to determine job skills and knowledge required for effective staff performance; absence of uniform

[1] Reorganization Plan of 1953, 67 Stat. 631 (1953), reprinted in 42 U.S.C. §3501, note (1970).
[2] U.S., Department of Health, Education, and Welfare, *This Is HEW* (1978), pp. 1–12.
[3] Civil Rights Act of 1964, Title VI, 42 U.S.C. §2000d–d6 (1970). Title VI prohibits discrimination based on race, color, or national origin in federally-assisted programs.
[4] Ibid.
[5] U.S. Department of Health, Education, and Welfare, Office of the Secretary, Office for Civil Rights, "Statement of Organization, Functions, and Delegations of Authority." 42 Fed. Reg. 31647 (1977).
[6] Ibid., pp. 31648–31652.
[7] 13 Weekly Comp. of Pres. Doc. 200,203 (Feb. 16, 1977).
[8] Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare, HEW news release, Feb. 17, 1977.
[9] Ibid.

criteria for allocating staff resources among enforcement activities; lack of coordination between OCR and program agencies; and limited communication between headquarters and regional offices.[10]

One year later, the OCR Director reported that considerable progress had been made. Among those initiatives reported by OCR are improvements in personnel training and evaluation; an increase in the complaint closure rate per investigator, from around 4 complaints per year to 12; and an increased number and variety of Title VI compliance reviews.[11] The Deputy Director maintained that those management and program deficiencies that remain are due in part to the fact that the "last administration did not put adequate resources into OCR."[12]

Recent congressional limitation of HEW's desegregation authority is another obstacle to effective enforcement of Title VI. As noted, the Carter administration interpreted the Byrd amendment[13] as permitting desegregation remedies that included paired and clustered schools. The Justice Department agreed with HEW's judgment that the Byrd amendment allowed HEW to require student transportation to paired and clustered schools,[14] techniques often used successfully to desegregate. However, enactment of the Eagleton-Biden amendment[15] now prevents HEW from requiring student transportation where it is the only remaining means to eliminate racially segregated schools. This amendment not only interferes with HEW's legislated obligation under Title VI, but it also undermines HEW's constitutional obligation not to fund discriminatory programs or practices.[16]

OCR Director David Tatel has pointed out that, as a result of such congressional restrictions, school segregation "remedies are limited and our ability to deal with these problems has been curtailed."[17] In fact, OCR officials contend that desegregation cases begun in the North and West now have "no chance for completion" by HEW in light of the Eagleton-Biden amendment.[18] Three current cases, involving school districts where HEW had determined that student transportation was required to fully desegregate the schools, have already been referred to the Justice Department in an effort to achieve through litigation what HEW cannot do through administrative action.[19] One other case in which a school district has refused to develop an adequate desegregation plan is now likely to be referred to the Department of Justice.[20]

The Department of Justice filed suit in the first of these three cases, Marion County, Florida, referred by HEW as a result of the Eagleton-Biden amendment. Although Federal District Court Judge Charles Scott found "prima facie evidence of vestigial, dual education systems,"[21] he dismissed the case in August 1978. He ruled that neither HEW nor DOJ has the right under Title VI to enforce through

[10] Elmer B. Staats, Comptroller General of the United States, letter to Senator Birch Bayh, Mar. 30, 1977, pp. 4–11. Similar findings were reported earlier in U.S. Commission on Civil Rights, *The Federal Civil Rights Enforcement Effort—1974; To Ensure Equal Educational Opportunity* (January 1975), pp. 356–62.

[11] David S. Tatel, Director, Office for Civil Rights, U.S. Department of Health, Education, and Welfare, OCR/HEW, letter to Arthur S. Flemming, Chairman, U.S. Commission on Civil Rights, Sept. 12, 1978, pp. 1–2 (hereafter cited as Tatel Letter). This letter emphasized that "between 1970 and 1978 only a minimum number of Title VI compliance reviews were accomplished, and most of these were in connection with Emergency School Aid Act (ESAA) applications. Most OCR resources were concentrated on complaint investigation." (Tatel Letter, p. 4.)

[12] Cynthia Brown, Deputy Director, OCR/HEW, interview in Washington, D.C., Apr. 3, 1978. Similar sentiments were expressed by OCR Director Tatel: "A major obstacle to effective civil rights enforcement by this Department has been the failure of past administrations to make and disseminate policy interpreting the laws we enforce." *HEW News*, Apr. 27, 1978.

[13] Labor-HEW Appropriations Act, 1976, Pub. L. No. 94–206, §209, 90 Stat. 22(1976), reenacted in 1977, Pub. L. No. 94–439, §208, 90 Stat. 1434(1977).

[14] Griffin Bell, Attorney General, letter to Joseph A. Califano, Secretary, Department of Health, Education, and Welfare, May 25, 1977.

[15] Pub. L. No. 95–205, §101, 91 Stat. 1460 (1977). See also H.R. 7555, §208, Senate version. Section 208(b) reads: "None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which, prior to any action after September 30, 1976, involving the merging, clustering, or pairing of said school with any other school, was nearest the student's home, and which offers the courses of study pursued by such student in order to comply with Title VI of the Civil Rights Act of 1964."

[16] The principle that Federal funding of discriminatory activities is unconstitutional is based on the fifth amendment and has been established in: Hills v. Gautreaux, 425 U.S. 284, 289 (1976); Cooper v. Aaron, 358 U.S. 1, 19 (1958); Simpkins v. Moses H. Cone Memorial Hospital, 323 F. 2d 959, 979 (4th Cir., 1963), *cert. denied* 376 U.S. 938 (1964); Green v. Connally, 330 F. Supp. 1150, 1164 (D.D.C. 1971) *aff'd sub nom* Cort v. Green, 404 U.S. 997 (1971). See also, United States Commission on Civil Rights, letter to the President, May 16, 1978, which reiterated an earlier recommendation that the President request additional staff resources to meet the litigation burden imposed upon it by the amendment. The Commission also urged the President to "exercise the independent authority of the executive branch to withhold funds from any school district which escapes action as a result of lack of resources in the Department of Justice."

[17] *New York Times*, May 21, 1978, p. 50.

[18] Cynthia Brown, Deputy Director, and Lloyd Henderson, Chief, Division of Technical Review and Assistance, OCR/HEW, joint interview in Washington, D.C., Apr. 3, 1978 (hereafter cited as Brown and Henderson Interview).

[19] The three school districts are Marion County, Fla., Flint, Mich., and Big Springs, Tex. Mariea Cromer, administrative assistant to Cynthia Brown, OCR, telephone interview, Nov. 7, 1978.

[20] The school district is Marshall, Tex. A second case, involving alleged discrimination against minority teachers in Camden Co., Ga., is also likely to be referred to the Department of Justice. (Cromer Interview, Nov. 7, 1978.)

[21] United States v. Marion County School District, No. 78–22–(M.D. Florida, Aug. 11, 1978), p. 27 (order granting defendant's motion to dismiss).

litigation nondiscrimination assurances made by the school district.[22] The Justice Department appealed this decision in early October.[23]

Less than one month before this decision, Federal District Court Judge John Sirica upheld the constitutionality of both the Eagleton-Biden amendment and the Esch amendment.[24] In his decision, Judge Sirica placed heavy emphasis on the litigation alternative as a viable means to obtain compliance with Title VI.[25] He indicated his willingness to reconsider his decision "[s]hould further proceedings in this case reveal that the litigation option left undisturbed by these provisions cannot, *or will not,* be made into a workable instrument for effecting equal educational opportunities."[26] Plaintiffs have appealed Judge Sirica's decision.[27]

OCR Under Court Order

As a result of the settlements in December 1977 and January 1978 of three longstanding lawsuits[28] that charged HEW with inadequate enforcement of Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972,[29] that enforcement effort is now monitored closely by the U.S. district court. The settlement order expands upon the balanced compliance program proposed by OCR in its Annual Operating Plan for FY 1977 whereby 55 percent of its Title VI and Title IX enforcement resources are directed to complaint processing and 45 percent to compliance reviews.[30] The order established a 2-year transition period (fiscal years 1978 and 1979) during which more than 3,000 backlogged individual complaints must be resolved, provided that Congress appropriates funds for the additional 898 staff positions called for in the order. In addition to requiring a more systematic complaint handling process, the order also called for more frequent Title VI compliance reviews in elementary, secondary, and higher education.

So that OCR could eliminate the substantial complaint backlog and more efficiently carry out its civil rights enforcement responsibilities, the Carter administration asked Congress to fund an additional 898 OCR positions. The terms of the *Adams* settlement order requiring specific enforcement achievements were based, in part, on OCR's acquisition of at least 898 new positions.[31] During the summer of 1978, the Congress approved a supplemental appropriations bill for FY 1978 that funds half of these positions.[32] In October 1978 the Congress approved the Labor-HEW appropriations bill for FY 1979, which includes funds for the other 449 OCR positions.[33]

OCR officials report that there are "troubles processing complaints within the time frames of the *Adams* agreement."[34] The court order established strict time limits for the various stages of complaint handling.[35] HEW officials note that these time frames are not being met in all cases, primarily because complaint investigations generate policy questions that must be decided in Washington.[36] The subsequent delays in processing complaint cases have been and remain a major hindrance to an effective enforcement program. It was not until September 1977 that OCR established an office with the specific mission to develop policy on civil rights enforcement questions as they arise.[37] Another cause for delay reported by OCR's regional investigators is that school districts are having difficulty providing all requested information in the course of complaint investigation.[38] The court order does recognize that such difficulties as well as inadequate staffing of

[22] *Id.*, pp. 3, 4, 28.

[23] Notice of appeal was filed in the district court, Oct. 6, 1978. Howard L. Feinstein, attorney, education section, Civil Rights Division, U.S. Department of Justice, telephone interview, Oct. 5, 1978.

[24] Brown v. Califano, No. 75–1068 (D.D.C., July 17, 1978) (order denying motion for declaratory and injunctive relief). For a full discussion of both amendments at issue in this case, see chapter 2.

[25] *Id.*, pp. 4–6, 9–12.

[26] *Id.*, p. 12.

[27] Brown v. Califano, No. 75–1068 (D.D.C., July 17, 1978), *appeal docketed,* No. 78–1864 (D.C. Cir. Sept. 6, 1978).

[28] Adams v. Richardson, 356 F. Supp. 92 (D.D.C. 1973), *modified and aff'd,* 480 F.2d 1159 (D.D.C. Cir. 1973); further relief granted *sub nom.* Adams v. Califano, 430 F. Supp. 118 (D.D.C. 1977). Consent order issued, Dec. 29, 1977. Brown v. Califano, No. 75–1068 (D.D.C. Jan. 10, 1978). Women's Equity Action League v. Califano. No. 74-1720 (D.D.C. Dec. 29, 1977). The Adams suit was filed on Oct. 19, 1970; Brown on July 3, 1975; and Women's Equity Action League on Nov. 26, 1974.

[29] Education Amendments of 1972, Title IX, 20 U.S.C. §1681 *et seq.* (Supp. IV, 1974). Title IX prohibits sex discrimination in federally-assisted programs.

[30] Adams v. Califano, No. 3095–70 (D.D.C. Dec. 29, 1977), referring to HEW Annual Operating Plan for FY 1977, 42 Fed. Reg. 39824 (1977).

[31] Adams v. Califano, No. 3095–70 (D.D.C. Dec. 29, 1977), at 2–3.

[32] H.R. 13467, 95th Cong., 2nd sess., 124 Cong. Rec. H1284 (1978).

[33] H.R. 12929, 95th Cong., 2d sess., 124 Cong. Rec. H12499–12500, S18857–18858 (1978). President Carter signed the bill, now Public Law 95–480, on Oct. 18, 1978.

[34] Brown and Henderson Interview.

[35] Adams Order, pp. 13–14. The time limits for complaint handling are as follows: intake—15 days, plus 120 days to complete the complaint if initial information is inadequate; investigation and analysis—90 days; negotiation to secure corrective action—90 days; and commencement of enforcement action—30 days.

[36] Brown and Henderson Interview.

[37] Cynthia Brown, Deputy Director, OCR/HEW, letter to William T. White, Jr., Assistant Staff Director, U.S. Commission on Civil Rights, June 27, 1978, tab C, p. 16 (hereafter cited as Brown Letter). OCR plans to release two policy memoranda on discipline during FY '79, one on vocational education and one on special purpose schools. (Brown Letter, p. 4.)

[38] Brown and Henderson Interview.

OCR may prevent clearing the complaint backlog by September 30, 1979.

In early November 1977, OCR reported 565 open complaint cases under Title VI in elementary and secondary education—252 involved students and 313 involved employment of teachers or administrators.[39] Although 885 complaint cases were closed during fiscal year 1978, OCR received 886 new Title VI complaints. Of those 885 complaints closed, remedial action was taken in 166.[40]

OCR officials report steady progress in meeting the requirements of the court settlement with regard to the number and timeliness of compliance reviews.[41] The court order required that OCR develop a balanced compliance review program that would be geographically well-dispersed, would cover student and employment programs and practices, would include student class assignment discrimination in large school districts, and would review bilingual education programs in proportion to local and regional needs.[42] Under OCR's Annual Operating Plan for FY '78, the agency completed 638 compliance reviews of school districts that applied for funds under the Emergency School Aid Act.[43] An additional 165 reviews in elementary and secondary education were scheduled for fiscal year 1978. Of those reviews, 151 were completed, resulting in letters of findings of noncompliance in 98 cases.[44] More than half of these reviews involved bilingual education, nearly one-fourth were carryover reviews from the previous year, four focused on major city school systems, four involved disciplinary practices, and four covered State education agencies.[45]

OCR was unable to provide specific information about Title VI compliance review activity during FY 1977 on the grounds "that reliable summary data do not exist for that time period."[46] This admission would appear to substantiate the GAO finding that OCR has lacked a good management information system.

In November 1977, OCR took steps to correct this deficiency, instituting a case disposition system to monitor all case closures and compile data on how certain issues arising in complaints or compliance reviews are resolved. Reports received from regional offices about case closures during FY 1978 have been fully coded for computer input and the disposition system is now in use. OCR expects this new system and an improved case following system to provide meaningful data that will allow an assessment of the effectiveness of its national compliance program. For instance, analysis of case disposition reports has shown that a large number of complaints about disciplinary practices have been resolved in favor of the student complainant.[47] OCR expects to provide guidance to school districts by the end of fiscal year 1979 about their legal responsibilities and record-keeping requirements associated with disciplinary actions against students.[48]

Early in 1978 OCR announced that it would survey only 6,000 of approximately 16,000 school districts in the 1978–79 school year. Approximately 3,000 districts to be surveyed this year are of particular interest to HEW because they are under court order or HEW-approved desegregation plans or because they are applicants for ESAA funds. The other 3,000 districts were randomly selected. HEW now plans to survey approximately 6,000 districts every 2 years and projects that by school year 1982–83, every school district with more than 300 students will have been surveyed at least once.[49] Secretary Califano stated that this "new survey achieves the

[39] From Nov. 7, 1977, data provided by Clark Leming, program analyst, OCR/HEW. Of those 252 student complaints open on Nov. 7, 1977, 74 involved disciplinary measures, 34 alleged discriminatory treatment, 34 involved student assignment, and 21 charged unequal facilities or services.

[40] From fiscal year 1978 data provided by Clark Leming.

[41] Brown and Henderson Interview.

[42] Adams Order, pp. 15–16.

[43] Education Amendments of 1972, Title VII, Emergency School Aid Act. 20 U.S.C. §1681 *et seq.* This act provides funds for implementation of voluntary and court-ordered school desegregation plans.

[44] Mariea Cromer, telephone interview, Oct. 27, 1978.

[45] U.S., Department of Health, Education, and Welfare, Office for Civil Rights, fiscal year 1978, "Annual Operating Plan," *Federal Register,* vol. 43, no. 34, Feb. 17, 1978, p. 7055.

[46] Brown Letter, p. 5.

[47] From those 205 complaint cases closed by OCR during the 6-month period Nov. 7, 1977, to May 3, 1978, there were 270 alleged instances of discriminatory treatment. Student complaints were resolved in their favor in only 46 of 158 instances (a change rate of 29 percent), but of those 43 cases where discriminatory disciplinary measures were alleged, 22 resolutions supported the student complainant (a change rate of 51 percent). From case disposition reports received in Washington from OCR regional offices during the period Nov. 7, 1977, to May 3, 1978, supplied by Clark Leming to USCCR staff. See, also, U.S. Commission on Civil Rights, *Fulfilling the Letter and Spirit of the Law: Desegregation of the Nation's Public Schools* (August 1976), pp. 255–69 for a discussion of the discipline issue in desegregating school systems. "School administrators must recognize that desegregation requires reevaluation of all school policies and procedures to ensure that they do not have a discriminatory effect on minority children. Discipline codes, the cultural standards on which they are based and whether they are fair standards for all children, must be examined."

[48] John Jefferson, equal opportunity specialist, Office of Standards, Policy, and Research, OCR/HEW, telephone interview, Oct. 4, 1978.

[49] *HEW News,* Jan. 12, 1978. This limited survey of school districts' civil rights compliance was promoted in part by congressional pressure. The Senate added an amendment to the FY 1978 Labor-HEW Appropriations bill (H.R. 7555) that would have prohibited the use of funds by HEW to conduct an elementary and secondary school survey in 1977-78. The House bill did not contain such an amendment. The House-Senate conference committee did not include that language in the final bill (House Report 95–538) after assurances were received from HEW that no survey would be

twin goals of ensuring the existence of a sufficient factual base for enforcement of the various anti-discrimination laws while avoiding undue burdens on school officials."[50]

This Commission hopes that data collected by these HEW surveys will be put to prompt and effective use to detect and correct Title VI violations.[51] Further, although the information collected is regularly analyzed for internal compliance purposes,[52] such analyses are not always disseminated to the public. The Office for Civil Rights is the only Federal agency that regularly collects these enrollment data, and it should be able to publish promptly analyses of national trends in school desegregation based on these data. Such comprehensive analyses, released in a timely manner, would contribute to the ability of Congress and other Federal, State, and local officials to formulate constructive legislation and policy in the field of school desegregation.

One question concerning HEW's school desegregation activities is whether the Department will cut off all Federal funds to school systems unwilling to comply with Title VI. Soon after taking office, Secretary Califano ordered a review of six desegregation cases in which termination of Federal funds had been ordered by an administrative law judge or the Department's reviewing authority.[53] Although the Secretary's expressed purpose was to determine whether new facts in the cases justified further delay before fund cutoffs were ordered, he noted at the time that "lengthy delays can undermine the purpose of the civil rights laws and destroy confidence in the government's will to enforce them."[54] He declared further that "cases that reach my desk for decision on termination of funds because of discriminatory practices will be acted upon swiftly."[55] Nearly 21 months later, however, only one of these six cases has been settled, one is in Federal district court, one is under further consideration by an administrative law judge, and three remain before the Secretary for his fund termination decision.[56] OCR reports that "Secretary Califano has ordered a reconsideration by the Reviewing Authority of its fund termination recommendation in each case pending before him."[57]

OCR officials report that fund termination action against noncomplying school districts has not proceeded as expected because ESEA Title I[58] funds have been exempted from several termination orders.[59] Those funds constitute the bulk of Federal assistance in many districts with a high proportion of educationally disadvantaged children. Secretary Califano has indicated his preference for fund termination policies that will direct the punishment to the violation and not needlessly injure students in programs unrelated to the Title VI violation.[60]

This concern is understandable. No new policies, however, have been proposed. In the absence of such proposals and their adoption by the Congress, this Commission believes that present sanctions should be enforced. If they are not, it means that school districts can deny today's schoolchildren and young people their constitutional rights without being held accountable in any meaningful manner.

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conducted during the 1977–78 school year. Arthur Besner, congressional liaison specialist, OCR/HEW, telephone interview. Aug. 28, 1978.

[50] Ibid., p. 3.

[51] According to OCR:

> The survey has been thoughtfully constructed to ensure adequate data to be analyzed and used for targeting purposes close to the projected compliance activity. Instead of collecting an excess of data, much of which would never be used for compliance targeting, the Department has built upon its past experience in surveying school districts to scientifically sample a selective portion of the OCR universe. In addition. . .OCR will conduct a survey of over 4,000 special purpose facilities this fall. Tatel Letter, p. 4.

[52] Howard Bennett, Chief, Data Collections and Analysis Branch, OCR/HEW, telephone interview, Oct. 30, 1978.

[53] *HEW News,* Feb. 17, 1977. The six districts are Marshall Independent School District, Texas; Marlin Independent School District, Texas; Uvalde Independent School District, Texas; Sparkman School District No. 3, Arkansas; Marion School District No. 3, Arkansas; and Hughes School District No. 27, Arkansas.

[54] Ibid.

[55] Ibid.

[56] Richard Slippen, Director, Civil Rights Reviewing Authority, HEW, telephone interview, Oct. 26, 1978.

[57] Tatel Letter, p. 5.

[58] Elementary and Secondary Education Act (ESEA) Title I funds are generally used to support extra instructional programs designed to give extra assistance to students performing below grade level. 20 U.S.C. §241a, *et seq.* (1970).

[59] Brown and Henderson Interview. With respect to termination of ESEA Title I funds, OCR states:

> The Office for Civil Rights, supported by the Office of the General Counsel of HEW, has consistently sought to terminate Title I ESEA assistance to school districts which discriminate in violation of Title VI of the Civil Rights Act of 1964. However, in Taylor v. Finch, 414 F.2d 1068 (5th Cir. 1969) the court held that there must be separate findings in the termination decision that discrimination exists either directly or through infection, in each program supported by Federal funds. That decision has been interpreted in several recent cases by the Reviewing Authority, the independent appellate tribunal in the administrative process, as a virtual bar to the termination of Title I funds because of the supposed special purpose of the funds which isolates them from the discriminatory activities of the school district. The General Counsel has appealed the position of the Reviewing Authority to the Secretary, who has a discretionary review under the Title VI procedures. (Brown Letter, p. 6.)

ESEA Title I funds have been exempted from fund termination proceedings in nine cases: Hughes School District No. 27, Arkansas; Marion School District No. 3, Arkansas; Sparkman School District No. 37, Arkansas, Marshall independent School District, Texas; Victoria Independent School District, Texas; Big Spring Independent School District, Texas; Lima City Schools, Ohio; Kinston Graded Schools, North Carolina; Laurens County School District No. 56, South Carolina. (Marion Brooks, attorney, Office of the General Counsel, HEW, telephone interview, July 17, 1978.)

[60] *Education Daily,* Jan. 2, 1978.

HEW has concluded negotiations with four major city school systems during the past year. The Chicago Board of Education agreed to a citywide plan for teacher desegregation and bilingual education, ending 12 years of negotiation and litigation.[61] The Kansas City, Missouri, School District and HEW agreed on a plan to further student and faculty desegregation.[62] HEW's settlement with the New York City school board requires an end to the segregative use of ability groupings and close monitoring of disciplinary measures to detect discriminatory practices.[63] Two other points of agreement between HEW and New York City involve teacher desegregation and the identification of language minority students needing bilingual instruction.[64] Similarly, the Los Angeles school system agreed to identify those students requiring language instructional programs and to carry out nondiscriminatory teacher assignment.[65]

During the summer of 1977, HEW's Office for Civil Rights underwent a complete reorganization and the formation of two new offices.[66] The new Office of Program Review and Assistance is charged with coordinating OCR's Title VI enforcement activity with all HEW agencies that provide Federal assistance. According to the head of that office, "the Secretary wants [program] agencies more involved in civil rights responsibilities,"[67] so they can better assist OCR in achieving compliance with Title VI. The other new branch of OCR is the Office of Standards, Policy, and Research, established to provide coherent policy decisions on the fundamental issues that arise from compliance reviews and complaint investigations.[68] It is hoped that these new offices, operating in conjunction with the restructured Office of Compliance and Enforcement, will contribute to a comprehensive and timely enforcement effort by OCR that will enable it to fulfill the commitments expressed by President Carter and Secretary Califano.

Analysis of New Data

A vital responsibility of HEW is its periodic collection of data from the Nation's public schools that provide a factual base for its enforcement of antidiscrimination laws in education. The number of school districts, the period of time between surveys, and sometimes the specific districts reviewed have changed from survey to survey. Data from OCR's Fall 1976 Elementary and Secondary School Civil Rights Survey became available for analysis in May 1978. These data provide the most comprehensive assessment of the present extent of pupil segregation in the public schools. Survey information on segregation is drawn from 3,616 of the approximately 16,000 school districts in the country, but because of the manner in which the sample was selected, the survey includes 86 percent of all minority pupils attending public schools in 1976.[69]

The following is a limited analysis of these latest HEW data on the extent of racial and ethnic isolation of students. The index of segregation used throughout this section is a measure of segregation among schools *within* a district.[70] It does not measure segregation *between* districts. The index can range from 0.0, indicating no segregation within a district, to 1.0, indicating complete segregation.[71] The index is calculated in a manner so that its value is not affected by the percentage of white students in a district.

In this analysis, an index of 0.0 to 0.19 will be described as a low level of segregation, an index of 0.20 to 0.49 as a moderate level, and an index of 0.50 or greater as a high level of segregation. The index was calculated separately for blacks, Hispanics, Asian and Pacific Islanders, and American Indians and Alaskan Natives, and also for all minorities together.

Further analysis of 1976 OCR data will be undertaken by this Commission in future reports. OCR's next survey of school districts was initiated in October 1978.

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[61] *HEW News*, Oct. 12, 1977.
[62] *HEW News*, Feb. 23, 1978.
[63] *HEW News*, June 16, 1978.
[64] Tatel Letter, p. 5.
[65] Ibid.
[66] Adams v. Califano, 430 F. Supp. 118 (D.D.C. 1977), affidavit of David S. Tatel, Director, Office for Civil Rights, U.S. Department of Health, Education, and Welfare, June 6, 1977 (hereafter referred to as Tatel Affidavit).
[67] Gus Cheatham, Deputy Director, Office of Program Review and Assistance, OCR/HEW, interview in Washington, D.C., Apr. 14, 1978.
[68] Tatel Affidavit.
[69] Details of the sample are provided in *1976 E. & S. Sample Selection* (Arlington, Virginia, DBS Corporation, Mar. 10, 1977).
[70] The index used is Colman's *R*; as a measure of the segregation of blacks, the index:

$$R_{bw} = \frac{P_w - S_{bw}}{P_w}$$

where:

$$P_w = \frac{\text{non-Hispanic-origin white students in the district}}{\text{all students in the district}}$$

and

$$S_{bw} = \frac{\sum_k n_{bk} \cdot P_{wk}}{\sum_k n_{bk}}$$

TABLE 1

1976 Projected Average Level of Segregation* for Various Minorities and Regions

Racial/Ethnic Group	Northeast	North Central	Border	Southeast	West South Central	West	Nation
Blacks	.39	.47	.23	.17	.28	.34	.30
Hispanics	.34	.04	.04	.20	.14	.15	.17
Asians/Pacific Islanders	.01	.01	.04	.02	.02	.05	.03
American Indians/ Alaskan Natives	.01	.28**	.00	.22	.02	.08	.11**
All Minorities	.34	.37	.21	.16	.20	.18	.24
Number of districts surveyed	539	784	108	882	737	566	3616

* In this analysis, level of segregation is described as low level if the index is 0.0–0.19, moderate level if the index is 0.20–0.49, and high level if the index is 0.50 or greater.
** These estimates may be slightly in error; the standard errors exceeded 3 percentage points.

Extent of Segregation in 1976

The average level of segregation of all minority pupils in the country was moderate in 1976 (index of 0.24). There are substantial variations in the average level of segregation for the four racial/ethnic groups and for different regions of the country, as shown in table 1. It is highest for blacks and lower but not insignificant for Hispanics. It is considerably higher in the Northeast and North Central regions than elsewhere, but even in the region with the lowest average level, the Southeast, the level of segregation is noticeable.[72] It should be noted that although the average levels of segregation for Asian/Pacific Islanders and American Indians/Alaskan Natives are quite low in most regions of the country, this does not preclude the possibility that these groups are substantially segregated in some of the districts in which they attend school.

Another measure of the extent of segregation is the number or percentage of minority pupils who attend moderately or highly segregated schools. Almost 4.9 million minority children still attend schools in at least moderately segregated districts, as table 2 indicates. This figure represents 46 percent of all minority pupils. Sixty-five percent of all minority pupils in the Northeast region and 68 percent of all minority pupils in the North Central region attend at least moderately segregated school districts.[73]

Segregation of blacks and Hispanics is considerably greater in the central cities of metropolitan areas than it is in other areas, but this pattern does not hold for the other racial/ethnic groups, as table 3 shows. Other data not shown in the tables indicate that 51 percent of all black pupils and 51 percent of Hispanic pupils in the country attend central city schools.[74]

The Office for Civil Rights indicated that 16 school districts in the country were undergoing desegregation litigation in 1976. These districts have a markedly higher average level of segregation of blacks than do all other districts shown in table 4, but the segregation of Hispanics and of the other racial/ethnic groups is somewhat lower in these 16 districts than in all other districts. Even in districts operating under a court-ordered desegregation plan, a moderate level of black segregation and a low but appreciable level of Hispanic segregation remain.

where n_{bk} = black students in the k*th* school of the district, and P_{wk} = non-Hispanic-origin white students in the k*th* school of the district / all students in the k*th* school of the district

If there is a district that is 30 percent black and 70 percent white; if it has only two schools, both of which have the same number of pupils; and if one school is 10 percent black and the other school is 50 percent black, then Rbw will equal 0.19. In a few cases the calculated index equaled a negative number and in those cases zero was substituted in place of the negative value; divisions by zero were given a quotient of zero.

[71] The indices were averaged across districts by weighting for the number of pupils in the district for whom the index was calculated (i.e., the index for blacks was averaged by weighting for the number of blacks, and the index for all minorities was averaged by weighting for the number of all minorities). All values of the indices and enrollments reported in the tables and text of this section are either projected estimates of the universe or values from a census of a specified subset of the universe.

[72] The regions are defined here as follows: Northeast—Maine, Vermont, New Hampshire, New York, Massachusetts, Rhode Island, Connecticut, Pennsylvania, and New Jersey; North Central—North Dakota, South Dakota, Minnesota, Wisconsin, Michigan, Nebraska, Iowa, Illinois, Indiana, Ohio, Kansas, and Missouri; Border—Kentucky, West Virginia, Maryland, and Delaware; Southeast—Tennessee, Virginia, North Carolina, South Carolina, Mississippi, Alabama, Georgia, and Florida; West South Central—Texas, Oklahoma, Arkansas, and Louisiana; West—Washington, Oregon, California, Idaho, Montana, Nevada, Utah, Wyoming, Colorado, Arizona, New Mexico, and Alaska. Hawaii and the District of Columbia were excluded from the analyses presented in this section.

[73] Calculated from data in table 2.

[74] From unpublished computer analyses for the U.S. Commission on Civil Rights by DBS Corporation, June 1978.

TABLE 2

1976 Projected Enrollment of All Minorities (In Thousands) By Levels of Segregation and Region*

Level of segregation	Northeast	North Central	Border	Southeast	West South Central	West	Nation
Low (less than .02)	665	561	255	1,652	996	1,503	5,627
Moderate (0.2-0.5)	1,056	621	134	774	499	723	3,807
High (greater than 0.5)	180	590	0	80	212	0	1,064
Total	1,900	1,773	389	2,506	1,703	2,227	10,497

*Levels of segregation are computed for all minorities together.

TABLE 3

1976 Projected Average Level of Segregation for Various Minorities and Categories of Metropolitan Status

Racial/Ethnic Group	Metropolitan Central Cities	Metropolitan Suburbs	Non-Metropolitan Areas	All three categories Together
Blacks	.46	.16	.09	.30
Hispanics	.28	.08	.04	.17
Asians/Pacific Islanders	.04	.03	.01	.03
American Indians/ Alaskan Natives	.04	.03	.17*	.11*
All Minorities	.38	.12	.08	.24
Number of districts surveyed	262	1,223	2,131	3,616

*These estimates may be moderately in error; the standard errors exceeded 3 percentage points.

TABLE 4

1976 Actual and Projected Average Levels of Segregation* for Various Minorities and District Compliance Categories

	COMPLIANCE CATEGORIES**					
Racial/Ethnic Group						
Blacks	.23	.17	.59	.20	.39	.30
Hispanics	.15	.07	.13	.03	.19	.17
Asians/Pacific Islanders	.03	.02	.01	.02	.03	.03
American Indians/ Alaskan Natives	.10	.23	.00	.07	.11*	.11*
All Minorities	.21	.15	.53	.14	.27	.24
Number of districts surveyed	681	712	16	284	1,923	3616

*The level of segregation is described as low level if the index is 0.0–0.19, moderate level if the index is 0.20–0.49, and high level if the index is 0.50 or greater.

**The data in the first four columns are from *all* districts in the country with the specified compliance characteristics; thus, the data given in those columns are actual values rather than projected estimates. The data in the fifth column are projected estimates from a sample. The data in the sixth column are projected estimates. The compliance codes for approximately 10 percent of the 3,616 analyzed districts were corrected by the Office for Civil Rights' contractor subsequent to the analyses reported here. Most of the corrections involved reclassifying "other districts" as one of the four other possible categories. Consequently, all values in this table may be moderately in error.

***These estimates may be slightly in error; the standard errors exceeded 3 percentage points.

****A "voluntary" desegregation plan is defined by the Office for Civil Rights as any adopted plan that was not court ordered, regardless of the other sources of pressure that may have led a district to adopt the plan (including pressures from the State departments of education, the Office for Civil Rights, or the threat of litigation).

Bilingual Education

In a 1975 report this Commission concluded that "language minority students[75] badly needed an alternative to education in the monolingual English [language] system,"[76] and that "bilingual bicultural education is the program of instruction which currently offers the best vehicle for large numbers of language minority students."[77] In its extensive 1976 school desegregation study, the Commission noted "the increased use of bilingual-bicultural education, an indication that school districts are becoming more responsive to the needs of language-minority children."[78]

Access to bilingual-bicultural education for linguistically and culturally diverse children now has significant legal basis.[79] Enforcement of laws de-

[75] The term "language minority" refers to persons in the United States who speak a non-English native language and who belong to an identifiable minority group of generally low socioeconomic status.

[76] U.S., Commission on Civil Rights, *A Better Chance to Learn: Bilingual-Bicultural Education* (May 1975), p. 138. Bilingual-bicultural education is defined as a comprehensive educational approach that uses the student's native language as a medium of instruction and includes in the curriculum the student's historical, literary, and cultural background. Bilingual-bicultural programs include non-English-speaking as well as English-speaking children. Language minority children are provided a real opportunity to learn since they are taught basic subject matter in the language they know best while they acquire proficiency in English. English-speaking children in these programs are given the opportunity to learn another language and increase their understanding of a different culture. An appendix to this report (pp. 142–70) discussed the constitutionality of the right of non-English-speaking students to equal educational opportunity.

[77] Ibid., p. 137.

[78] *Fulfilling the Letter and Spirit of the Law*, p. 114.

[79] In January 1974 the United States Supreme Court ruled that the failure of the San Francisco school system to provide English language instruction to approximately 1,800 students of Chinese ancestry who did not speak English, or to provide them with other adequate instructional procedures,

signed to ensure such access is another major responsibility of HEW's Office for Civil Rights. The first Executive policy statement regarding equal access to educational opportunity for national origin minority students came in 1970 when HEW's Office for Civil Rights issued its May 25 memorandum.[80] The memorandum required school districts with significant numbers of non-English-speaking children to take affirmative steps to open their instructional programs to language minority children. The memorandum also brought national origin discrimination into the framework of OCR's compliance activities, because the failure to provide special assistance to language minority students was considered a violation of Title VI of the Civil Rights Act of 1964.

In 1974 the U.S. Supreme Court upheld the authority of HEW/OCR to issue and enforce guidelines that require school districts receiving Federal financial assistance to develop language instructional programs. By its decision in *Lau* v. *Nichols,* [81] the Court confirmed the notion that school districts must adapt their educational programs to meet the specific needs of children with limited English proficiency.

An OCR official observed in 1977 that the "standards set forth in [the 1970] memorandum remain at the core of our approach in enforcing Title VI" with respect to school districts that enroll national origin minority children.[82] He added that after a 1972 survey[83] revealed that a very small percentage of language minority children were receiving special assistance, OCR "decided that a more comprehensive and effective effort would be required to ensure that school districts were complying with Title VI."[84]

One year after the *Lau* decision, OCR established broad parameters that described what are acceptable instructional approaches for language minority students. These guidelines, titled "Task Force Findings Specifying Remedies Available for Eliminating Past Educational Practices Ruled Unlawful under *Lau* v. *Nichols,* " have become known as the "Lau Remedies."[85]

Also in 1975 OCR began using a special school survey form to secure additional information on language minority students.[86] By mid-1977, 275 returns had been analyzed and OCR said, "determinations of compliance or noncompliance have been made in 222 cases. One hundred fifty one districts have submitted corrective plans and 126 corrective plans have been accepted."[87]

By mid-1978 OCR had made determinations regarding the compliance status of most of these school districts. An extremely high rate of findings of noncompliance has persisted, largely because of the failure of school districts to identify properly the students who need bilingual education or other types of language instruction programs. About 75 percent of schools found in noncompliance have submitted corrective plans as required by OCR; other school districts are still working on their plans, often with technical assistance provided by OCR.[88]

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was a denial of a meaningful opportunity to participate in the public educational program and thus was a violation of §601 of the Civil Rights Act of 1964, which bans discriminations based on race, color, or national origin in any program or activity receiving Federal financial assistance.
The basic Federal legislation for bilingual education is the Bilingual Education Act of 1968, 20 U.S.C. 880b (Supp. 1975). This act, Title VII of the Elementary and Secondary Education Amendments of 1967, Pub. L. No. 90-247, 81 Stat. 783 at 816 (1968), declared that the policy of the United States shall be "to provide financial assistance. . .to carry out new and imaginative elementary and secondary school programs designed to meet these special educational needs. . ." of language minority children. As a result of the act, Federal funding of demonstration bilingual education programs began. Appropriations have increased from the original $7.5 million in 1969 to $150 million for the 1979 fiscal year. Labor, Health, Education and Welfare-Supporting Detail Account Table, FY 1979, Oct. 1, 1978, p. 17.

[80] J. Stanley Pottinger, Director, Office for Civil Rights, Department of Health, Education, and Welfare, memorandum to School Districts With More Than Five Percent National Origin-Minority Group Children, "Identification of Discrimination and Denial of Services on the Basis of National Origin," May. 25, 1970.

[81] 414 U.S. 563 (1974). A recent district court decision enhances the legal status of bilingual education. It gives judicial weight to the "Lau Remedies," as enunciated by the Court, which govern the determination of educational needs of language minority children. That case is Rios v. Read (73 F.R.D. 589 (E.D. N.Y. 1977)); Another important bilingual education case yet to be decided is Cintron v. Brentwood, C.A. No. 77-C-1310 (E.D.N.Y. filed June 22, 1977).

[82] *Bilingual Education: Hearings on H.R. 15 Before the Subcommittee on Elementary, Secondary and Vocational Education of the House Committee on Education and Labor,* 91st Cong., 1st sess. (1977) (statement of Lloyd Henderson, Chief, Division of Technical Review and Assistance, OCR), p. 119 (hereafter cited as *Bilingual Education: Hearings).*

[83] U.S. Department of Health, Education, and Welfare, Survey of Elementary and Secondary Schools, 1972 (Forms 101 and 102).

[84] Henderson Testimony, *Bilingual Education: Hearings,* p. 122.

[85] 45 C.F.R. 80. These "remedies" set forth a number of activities that a school district with language minority children should undertake to achieve compliance with the *Lau* decision. Those "remedies" include the identification of target groups to be served by such a program, an assessment of the type of program that will be most effective in that district (e.g., English as a second language, bilingual-bicultural programs, or transitional bilingual education programs), a listing of teacher requirements, and suggested methods for diagnosing students needs, such as verbal tests and parental interviews.

[86] U.S., Department of Health, Education, and Welfare, Form OS 53-74 dated Mar. 15, 1975 ("Compliance Reports on Instructional Services For Students Whose Primary or Home Language Is Other Than English"), *Bilingual Education: Hearings,* p. 137. This survey form was sent to 334 selected districts identified through the 1972 survey as having large concentrations of language minority students.

[87] Henderson Testimony, *Bilingual Education: Hearings,* pp. 122-23.

[88] Juan Trevino, Lau unit, Enforcement and Compliance, OCR/HEW, telephone interview, June 13, 1978 (hereafter cited as Trevino Interview).

As a result of a recent court settlement, OCR has made agreements concerning current and future enforcement activity in *Lau* districts:

> in FY 1978 Headquarters will monitor ten percent of the *Lau* plans accepted by the regions to assure that all regions are applying uniform standards in accepting such remedial *Lau* plans. The same number of plans will be monitored in FY 79.[89] Among compliance review activities charted in OCR's Annual Operating Plan for FY 1978 were 88 reviews of elementary and secondary school district language programs *(Lau)* (Title VI) specifically aimed at ensuring equal educational opportunity for language minority children.[90] This total included 83 ongoing *Lau* reviews already in progress on October 1, 1977.[91] OCR is continuing to expand its effort in this area and "is currently working on new mechanisms for identifying additional LEAs [local education agencies] to be investigated under *Lau.* "[92]

Many minority group educators and leaders are disenchanted with OCR's enforcement effort.[93] They allege that the monitoring and evaluation conducted by OCR do not adequately take into account the educational needs of language minority students and that the Federal Government will tolerate minimal compliance with the *Lau* remedies, which allow broad and differing interpretations. One analysis summarized this point of view:

> problems and delays in HEW's enforcement of Title VI suggest that the Department is unlikely to act energetically on behalf of linguistic minorities. . . .Considering the dissatisfaction of minority groups with HEW's past enforcement efforts, it is to be expected that people seeking bilingual education for their schools will continue to turn to the courts.[94]

A major problem in this regard is that the Federal role in enforcing policies that affect the elimination of discrimination against national origin minority children has yet to be clearly defined, particularly in the context of school desegregation. According to the Assistant Secretary for Education, the policy of HEW on the relationship between desegregation and the educational concerns of language minority groups ". . .is fuzzy and is now in the process of being well defined."[95] The Assistant Secretary noted that there are continuing discussions about what the focus of the Federal Government should be in this regard.

OCR maintains there is no conflict in its enforcement program between desegregation and the education of language minority students:

> The Department has never mandated the total integration of student bodies where language minority students require special language assistance. Likewise, the Office has not approved programs requiring the isolation of language minority children for purposes of special instruction.[96]

Bilingual Education and Desegregation

The role of bilingual education within the context of desegregating school districts is a developing aspect of HEW's enforcement effort. OCR is aware of the need for "a much closer liaison between the Title VII program and OCR. OCR also believes that, to the extent possible, the ESEA Title VII funding program should be administered in a manner supportive of the Title VI enforcement effort."[97]

For language minority groups, including Hispanics, Asian and Pacific Island Americans, and American Indians and Alaskan Natives, bilingual-bicultural education remains the critical component of their struggle for equality of educational opportunity.[98] Asian and Pacific Island American partici-

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[89] Deputy Director, Compliance and Enforcement, Office for Civil Rights, Department of Health, Education, and Welfare, memorandum to all regional OCR staff and all headquarters OCR staff, Jan. 23, 1978, p. 3.

[90] 43 Fed. Reg. 7048, 7055 (1978).

[91] Ibid., 7051.

[92] Trevino Interview.

[93] Stephen Thom, Director, Asian and Pacific American Concerns Staff, Office of Education, HEW, telephone interview, Apr. 17, 1978 (hereafter cited as Thom Interview); Gloria Zamora, director, MIME Center, Intercultural Development Research Association, telephone interview, Apr. 14, 1978 (hereafter cited as Zamora Interview); Susan Talley, research associate, National Institute of Education, interview, Apr. 13, 1978.

[94] Herbert Teitelbaum and Richard J. Hiller, "Bilingual Education: The Legal Mandate," *Harvard Educational Review,* vol. 47 (May 1977), pp. 154–55. This article is a comprehensive review of legal developments concerning bilingual education.

[95] Mary F. Berry, "The Department of Health, Education, and Welfare's policy related to desegregation and the education concerns of the Hispanic community" (prepared for a conference sponsored by the National Institute of Education, Washington, D.C., June 26–28, 1977).

[96] Tatel Letter, pp. 6–7. "OCR, through its Office of Policy, Standards, and Research, continues to refine its position with respect to identification of violative conditions, trends, etc., and the identification of specific corrective activities and technical assistance for school districts under the *Lau* standard." Tatel Letter, p. 7.

[97] Trevino Interview.

[98] See *Bilingual Education: Hearings;* Interamerica Research Associates, *The Third Annual Report of the National Advisory Council on Bilingual Education* (Washington, D.C.: 1977). See also, Thom Interview; Zamora Interview; Michael Cortez, director of legislative analysis, National Council of La Raza, interview, Apr. 13, 1978; Robert Herman, legal director, Puerto Rican Legal Defense and Education Fund, telephone interview, Mar. 31,

pants at a recent conference on educational problems, for example, concluded that "the biggest problem. . .is the need for more bilingual education."[99]

Language minority groups, nevertheless, support desegregation provided there is "an accommodation for bilingual education programs in the scheme of desegregation."[100] They generally agree that desegregation and bilingual education are compatible aspects of pluralistic education that share the common goal of equality of educational opportunity.[101] One educator explains:

> Though the implementation of bilingual education programs in a desegregated school setting. . .produces increased logistical problems, it is not administratively or pedagogically prohibited. . . .Most of the problems presented as difficulties of instructing language minority children in desegregated facilities address administrative inconvenience rather than pedagogical impediments for carrying out desegregating orders of the court.[102]

Language minority groups are likely to continue to litigate for bilingual education and to participate as plaintiffs or intervenors in desegregation cases:

> Bilingual education and desegregation need not be headed on a collision course; these educational goals are not necessarily mutually exclusive. . . .Because of the broad remedial powers of the courts to eliminate unlawful school segregation, desegregation cases continue to serve as convenient vehicles for court-ordered bilingual education programs. . .desegregation cases may provide the best hope for achieving comprehensive court-mandated bilingual education programs.[103]

1978; John Waubaunsee, director, education litigation unit, Native American Rights Fund, telephone interview, Mar. 30, 1978. In its 1977 report, the National Advisory Council on Bilingual Education stated:

> The concept of bilingual education has expanded significantly since 1958. . . .[It is an] approach not limited to Hispanic groups only, but to the multitude of other language groups in this nation. . . .Bilingual education is now viewed as perhaps the only alternative for meeting previously ignored educational needs of these groups. (p. viii)

[99] See Thom Interview; see also, *Education Daily,* Apr. 4, 1978, p. 2.

[100] Roos Interview; see also, Teitelbaum and Hiller.

[101] U.S., Department of Health, Education, and Welfare, National Institute of Education, *Desegregation and Education Concerns of the Hispanic Community: Conference Report* (Washington, D.C.: 1977). NIE is currently coordinating the development of a series of bilingual education/desegregation policy papers to address the various problems inherent in introducing bilingual education programs into districts undergoing desegregation orders. In addition, NIE inaugurated a study in 1978 to determine how bilingual education is being implemented in Federal and State projects.

[102] Jose Cardenas, "Desegregation and Bilingual Education," January 1978, Intercultural Development Research Association (San Antonio, Texas), pp. 6 and 21.

[103] Teitelbaum and Hiller, p. 162.

Chapter 4

Desegregation in 47 School Districts

Constitutional guarantees, court orders, congressional acts, and administrative enforcement efforts take on meaning as they are applied in local communities and affect the lives of individuals. The following are brief reports on the current status of desegregation in 47 school districts from Anchorage, Alaska, to Uvalde, Texas. These summaries, prepared by the Commission's nine regional offices, are based upon interviews with local school officials and civil rights and community leaders and a review of local press reports. (These sources are identified in appendix A.) They also represent an assessment by regional office staff of school desegregation developments in the districts studied. The communities selected were chosen by the regional offices, which were asked to choose five school districts (two regional offices did six surveys), two of which would be large districts. The remaining three were to be chosen if in the opinion of the regional office they had national interest, if they were unique in some way, or if they were of critical importance in the respective region. The surveys were submitted in draft to the 47 school superintendents. Such comments, when received, were incorporated into the final drafts of the surveys. (A list of the superintendents is contained in appendix B.)

Before turning to the 47 individual reports, one issue that concerns a number of the districts requires separate comment. As some of the 47 surveys indicate, the role of metropolitan desegregation[1] has become an issue in a number of large urban areas characterized by predominantly minority city schools and primarily white suburban schools. Given demographic changes beginning decades ago and continuing today and for a variety of reasons, of which school desegregation is but one, it has become clear that school desegregation in many areas will not be achieved without a metropolitan or interdistrict solution.

At the end of the 1977–78 school year, 10 of the 50 largest school systems in the country were operating under court-ordered metropolitan desegregation plans.[2] Four of these systems involve consolidated school districts that include the cities of Charlotte, North Carolina; Las Vegas, Nevada; Louisville, Kentucky; and Nashville, Tennessee. The other six areawide plans are in Florida counties containing Clearwater, Ft. Lauderdale, Jacksonville, Miami, Orlando, and Tampa.

Elsewhere, city school boards are initiating legal action or intervening in lawsuits brought by others seeking areawide consolidation of school systems or interdistrict desegregation without consolidation.[3] Major metropolitan cases are currently pending in Atlanta, Indianapolis, St. Louis, and Kansas City, Missouri.[4]

In September 1978 the city school district of Wilmington, Delaware, merged with 10 suburban school districts in a court-ordered plan that ends 22 years of litigation.[5] The Federal court in that case found evidence of State and local actions that had contributed to segregated schools and housing

[1] Metropolitan school desegregation involves desegregation across city-suburban boundary lines.

[2] Gary Orfield, *Must We Bus?* (Washington: The Brookings Institution, 1978), p. 412.

[3] Ibid., pp. 410–11. Central city school booards have joined efforts to bring about metropolitan desegregation in Detroit, Indianapolis, Kansas City, and Richmond. In Louisville, the school board abolished itself and merged with the surrounding county school system.

[4] Armour v. Nix, No. 16708 (N.D Ga., filed June 1972); United States v. Board of School Commissioners of City of Indianapolis, 541 F.2d 1211 (7th Cir. 1976), *vacated and remanded,* 429 U.S. 1068 (1977), *pending on remand,* No. IP 68–C–225 (S.D. Ind., July 11, 1978) (order reiterating necessity for interdistrict desegregation plan); School District of Kansas City, Missouri v. State of Missouri, 77–0420–CV–W–1 (W.D. Mo. filed May 26, 1977); Lidell v. Caldwell, 546 F.2d 768 (8th Cir. 1976), *cert. denied,* 433 U.S. 914 (1977).

[5] Evans v. Buchanan, 555 F.2d 373 (3d Cir. 1977). For a history of this protracted litigation, see U.S. Commission on Civil Rights, *Statement on Metropolitan School Desegregation* (February 1977), pp. 93–95.

patterns, thus increasing minority student isolation in the central city of Wilmington.[6]

Recent research at the Federal and State level has examined some common concerns about metropolitan school desegregation—that it would require a huge bureaucracy to administer, that it would generate fiscal and administrative problems, and that a massive busing program would be necessary.[7] The research to date does not support such contentions.[8] It does, however, show the potential of metropolitan remedies to provide more stable enrollment patterns than city desegregation plans.[9] A study of the Florida districts shows that metropolitan desegregation did not produce "declines in white support for the public schools [or] erosion of enrollment beyond that normally expected."[10] Further, studies have shown that because metropolitan remedies bring together students of varying racial *and* economic backgrounds, they enhance prospects for educational gains.[11] Combining the resources of several school districts in a metropolitan area can improve the curriculum and services available to all students, while eliminating the financial inequities that may exist between metropolitan school districts prior to consolidation.[12]

In 1977 this Commission stressed the feasibility of areawide desegregation plans and urged government at all levels to encourage voluntary development of such plans by school district officials.[13] Federal and State governments have done little to promote metropolitan remedies to eliminate educational inequities they helped create. Only Wisconsin and Massachusetts have enacted laws that promote interdistrict desegregation.[14] Until Federal leadership is provided on this vital national question, separate and unequal education appears likely to persist in those urban areas where State and local governments are unable or unwilling to act.

Anchorage, Alaska

Profile

Total public school enrollment in Anchorage in 1977–78 was 39,606, including 84.2 percent Anglos, 7.4 percent American Indians or Alaskan Natives (Aleuts and Eskimos), 4.8 percent blacks, 2.2 percent Asian Americans, and 1.4 percent Hispanics. Total enrollment in 1970 was 31,795, including 90.8 percent Anglos, 4.6 percent American Indians or Alaskan Natives, 2.7 percent blacks, 1 percent Hispanics and 0.7 percent Asian Americans.

In 1977 the district's faculty and administration staff numbered 3,444, including 84.2 percent Anglos, 8.2 percent blacks, and 4.1 percent Hispanics and Asian Americans combined. Faculty and administrative staff in 1970–71 totaled 1,468, including 95.3 percent Anglos, 2 percent blacks, 0.7 percent American Indians, 0.4 percent Hispanics, and 0.2 percent Asian Americans. One black or one Alaskan Native has usually sat on the school board during recent years.

Federal aid to Anchorage schools amounted to $2,741,228 in the 1977–78 school year. That total included $1,621,357 for ESEA Title I funds, $61,971 for Title IV–B, $161,151 for Title IV Indian Education, $90,819 for the Right-to-Read program, and $9,164 for Indochinese assistance.

Desegregation Status

Anchorage has never been faced with a court order, administrative ruling, or community-initiated demand to desegregate its schools. However, 5 years ago the district realigned its high school attendance zones to equalize minority student enrollment. Segregation, nonetheless, remains significant at some schools. Minority elementary school enrollment reaches nearly 60 percent in downtown elementary schools, 27 percent in some junior high schools, and 20 percent in two high schools. An open enrollment

[6] Evans v. Buchanan, 393 F. Supp 428, 432–438 (D. Del 1975).

[7] *Statement on Metropolitan School Desegregation* ; U.S., Department of Health, Education, and Welfare, National Institute of Education, *School Desegregation in Metropolitan Areas: Choices and Prospects* (October 1977); Forbes Bottomly and Allison Kitfield, eds., *Exploring Metropolitan Ways Toward Reducing Isolation: Prospects for Progress* (Denver: Education Commission of the States, 1978); and Orfield, *Must We Bus?*

[8] *Statement on Metropolitan School Desegregation,* pp. 6–34, 75–100, 113–14; *School Desegregation in Metropolitan Areas,* pp. 17–23, 89–103, 115–21, 123–38; *Exploring Metropolitan Ways Towards Reducing Racial Isolation,* pp. 6–64; Orfield, *Must We Bus?,* pp. 391–455.

[9] Thomas F. Pettigrew and Robert L. Green, "School Desegregation in Large Cities: A Critique of the Coleman 'White Flight' Thesis," *Harvard Educational Review,* vol. 46, no. 1 (February 1976), pp. 33–40.

[10] As cited in Orfield, p. 413. The research findings of the Florida Atlantic University study have been reported in the following articles and reports: Everett P. Cataldo, Douglas S. Gatlin, and Michael Giles, "Determinants of Resegregation: Compliance/Rejection Behavior and Policy Alternatives," Giles, Cataldo, and Gatlins, "Desegregation and the Private School Alternatives," in Gary Orfield, ed., *Symposium on School Desegregation and White Flight* (Washington: Center for National Policy Review, 1975), pp. 21–31; Giles, Cataldo, and Gatlin, "The Impact of Busing on White Flight," *Social Science Quarterly,* vol. 55 (September 1974), pp. 493–501.

[11] See *Statement on Metropolitan School Desegregation,* pp. 59–60.

[12] Ibid., pp. 60–62.

[13] Ibid.

[14] Bottomly and Kitfield, *Exploring Metropolitan Ways Toward Reducing Isolation,* pp. 49–50. Wisconsin's law promotes interdistrict transfers through provision of incentives, both to the transferring student and the receiving school district. Wisc. Stat. Ann. §121.85 (Supp. 1978). Massachusetts law promotes metropolitan remedies through an extensive system of magnet schools. Mass. Ann. Laws Ch. 76, §12A (Supp. 1978).

system has been instituted, but the school superintendent has indicated that no transfers will be approved that would increase segregation.

Several school officials and community leaders reported that most Anchorage citizens are accepting of multiracial schools, but conflicting attitudes on the subject exist in the community. Both minority and Anglo citizens reportedly would resist busing from their neighborhoods for desegregation purposes. A committee of Anglo parents recently argued for and won approval of a second site for a "back-to-basics," fundamental education curriculum. Some withdrew their support when school officials made it clear that the school would be located in a predominantly minority area. The parent group asserted that placing the school in a facility that would draw large numbers of minority students would jeopardize the academic success they needed to validate the "fundamental school" concept.

Minority parents and students are concerned about the welcome of students transferred to predominantly white schools, and there have been minor racial incidents among students during the past 2 years. Mexican American parents and students in Anchorage recently protested the use of library books with references and images allegedly derogatory to Hispanics. The books were reviewed by a curriculum committee established for this purpose, and their use was ultimately approved by the school board following the determination that the books were not derogatory.

There are no official or unofficial committees engaged in desegregation-related activities. Three years ago, a Minority Education Concerns Committee, composed primarily of minority parents, prepared a report which the district adopted. The committee no longer functions.

The school district's human relations unit is preparing a 2-year program to establish integrated student learning teams and evaluate their educational impact in terms of improved academic performance. Inservice training in human relations and multicultural awareness, with a special focus on Alaskan Natives, will continue for teachers and staff. Advisory groups in the community have also been formed to assist in education plans and goals of the district. Special attention is being given to outreach mechanisms that will increase participation by Alaskan Natives in school affairs.

Total suspensions for 1977–78 were 1,029, including 74.2 percent Anglos, 14.5 percent blacks, 9.3 percent American Indians or Alaskan Natives, 1.2 percent Mexican Americans, and 0.8 percent Asian Americans. Total suspensions for 1976–77 were 1,049, including 82.2 percent Anglos, 9.4 percent blacks, and 5.8 percent American Indians or Alaskan Natives (Mexican American and Asian American students were included in the "other" category, which was 2.6 percent). The district has used alternatives to suspensions during the past school year that reduced the total number of suspensions by 25.6 percent. Minority student suspensions increased by 6.5 percent during this same time period.

Atlanta, Georgia

Profile

Public school enrollment in Atlanta in 1978 was approximately 74,300, including 66,185 black students who made up about 89 percent of the total school population. White students numbered 7,720, just over 10 percent of the total enrollment, and Hispanics and Asian Americans were less than 1 percent of the total. The 1970 enrollment was about 105,380; black students were 68 percent and whites were about 31 percent. In 1978 the system had 1,450 teachers, of whom approximately 75 percent were black and 25 percent white. In 1978 the school system added 16 new administrative positions to the existing 19; blacks held 25 of these positions and 10 were held by whites. (Earlier data on teachers and administrators were not available for this survey.) The school board in 1970 had a white majority of seven, with three black members. By 1978 the board was composed of five black members and four whites.

In 1978 Federal aid to the Atlanta schools under the Elementary and Secondary Education Act (ESEA) totaled $8,370,413; funding under the Emergency School Aid Act (ESAA) amounted to $855,282.

Desegregation Status

Segregated residential patterns were a central element in a metropolitanwide school desegregation suit in Atlanta. The State and 10 suburban school systems outside Atlanta were defendants in the suit filed by the American Civil Liberties Union on behalf of black parents in 1972. The first significant action in the case was taken in March 1978, when a Federal court dismissed seven suburban school

districts from the suit. A final disposition of the case has not been made.

Limited school desegregation in Atlanta to date has been achieved through reassignment policies. In Atlanta, busing occurs only when a child volunteers to transfer from a school in which he or she would be in the minority. School officials indicate that only 3,500 pupils have chosen to transfer to schools out of their neighborhoods, and most students, therefore, still attend neighborhood schools.

Recent figures released by the Atlanta school system indicate that for the first time since the decline in white enrollment began in the early 1970s, return of these students to the public schools has begun. In September 1976, 476 white children changed to public schools from private schools in Area III, the school district on the predominantly white north side of Atlanta. The impetus for this return has been credited to an organization known as the Northside Atlanta Parents for Public Schools, a biracial group of parents from nine Northside Atlanta schools who organized in February 1976 to support public schools in the area. The group has become an active advocate for public education, encouraging participating schools to aggressively recruit neighborhood family involvement. The group has sponsored two public expositions and designed and distributed thousands of brochures to publicize the quality of education available in area schools. The organization is supported financially through parent and PTA donations and aid from the downtown Atlanta business community.

In 1970, in accordance with court orders, the faculty of each city school was required to meet a ratio reflecting the racial makeup of the student body at that time. A series of teacher transfers to accomplish this resulted in the resignation of hundreds of teachers.

Data on pupil suspensions in Atlanta were not available for this survey.

Austin, Texas

Profile

Total public school enrollment in Austin in fall 1977 was 58,454, including 24.1 percent Mexican Americans and 16.7 percent blacks. Total enrollment in 1970 was 54,878, including 20.4 percent Mexican Americans and 15.1 percent blacks. The school district's faculty and administrative staff in fall 1977 included 10.3 percent Mexican Americans and 13.3 percent blacks. In 1970 Mexican Americans comprised only 2.8 percent and blacks 15.1 percent of the district's teachers and administrators. In 1970 there was only one minority, a black, on the seven-member school board. Currently, there are five Anglos, one black, and one Mexican American serving on the board.

For the 1978–79 school year, Austin public schools have been provided with $2,378,302 under Title I of the Elementary and Secondary Education Act (ESEA), $359,852 for ESEA Title IV programs, $70,911 for handicapped (Title VI), $568,142 for ESEA Title VII, and $216,909 for vocational education programs. An ESEA Title I migrant project grant of $830,106 is pending.

Desegregation Status

In its 1971 decision in *United States* v. *Texas Education Agency,* the Federal district court found that in the Austin Independent School District (AISD) the vestiges of an unconstitutional dual school system remained with respect to black students, but not with respect to Mexican American students. The court ordered the closing of two all-black secondary schools, which resulted in busing those students to other schools in the district. In 1972 the U.S. Court of Appeals for the Fifth Circuit found discrimination against Mexican Americans. When the case was appealed again in 1976 and 1977, the appeals court upheld the earlier findings of discrimination. A petition for rehearing was rejected by the appeals court in September 1978.

School officials reported that as of October 1, 1977, 15 of the 61 elementary schools were 80 percent or more minority. Of those 15, 5 were 80 percent or more Mexican American, and 6 were 80 percent or more black. Two of the 11 junior highs and 1 of the 9 high schools were also 80 percent or more minority. A triethnic committee (Anglo, black, and Chicano) was recently reactivated under the court order to provide community views to the court on the negotiation of new desegregation efforts at the elementary school level.

Some community leaders would prefer a desegregation plan patterned after the Atlanta plan; that is, minimal busing and maximum employment of

minority professionals and a "quality" education plan. Others feel strongly that there should be an overall desegregation plan, including both the elementary and secondary schools in the district. A disproportionate burden of pupil transportation is currently borne by black students, and black leaders have called for a more equitable sharing of it.

At present, a human relations training program is conducted by the Austin school system to help students, teachers, and parents deal effectively with any desegregation-related problems. A school activities program also functions to increase secondary student involvement in voluntary extracurricular activities.

In 1977–78, 290 elementary and secondary students received long-term suspensions. Of this total, 134 or 46.2 percent were black, 78 or 26.9 percent were white, and 78 or 26.9 percent were Mexican American. With regard to short-term suspensions, in the 1977–78 school year, 2,534 senior students were suspended, of whom 40.2 percent were black, 30.2 percent were white, and 26.6 percent were Mexican American. This was an increase from the 1976–77 total of 2,420 senior high students with short-term suspensions, of whom 40.2 percent were black, 30.5 percent were white, and 29.3 percent were Mexican American.

Baltimore, Maryland

Profile

Baltimore's total public school enrollment in fall 1977 was 153,263 with 76 percent nonwhite and 24 percent white. In 1970–71 the enrollment was 67 percent nonwhite and 33 percent white. (Minority students who are not black account for less than one-half of 1 percent and their number is included in the nonwhite category.) The system has approximately 200 schools and special centers.

In 1977–78, 63 percent of teaching staff were nonwhite. The school-based administrative staff was also 63 percent nonwhite. In 1970–71, the percentages were 60 percent nonwhite for faculty and 53 percent nonwhite for administrative staff. Upper level central administrators were 42 percent nonwhite in 1970 and 55 percent nonwhite in 1977. In 1978 the nine-member school board was composed of five nonwhites and four whites. In 1970 four nonwhites and five whites were on the board.

According to a school official, extensive faculty desegregation occurred in September 1974 and 1975 when the first teacher transfers were made to achieve desegregation. In 1974, 15 to 20 percent of the approximately 8,000 teachers were transferred pursuant to desegregation guidelines. In 1975, 5 to 10 percent of the 8,000 teachers were reassigned. The district reported that since 1975 the number of teacher transfers to achieve desegregation has been minimal. According to the district, the desegregation plan involves only teaching staff and not central or school-based administrative staff.

Desegregation Status

In late 1975, HEW found Baltimore schools and Maryland's system of higher education in violation of Title VI of the Civil Rights Act of 1964. On March 15, 1976, the Federal district court joined the appeals of the two Maryland school systems and granted a preliminary injunction to halt any cutoff by HEW of Federal funds to the State and the district.

The court of appeals for the fourth circuit upheld the preliminary injunction. Although it prevailed in the lower courts, the State of Maryland sought *certiorari* on the issue of whether HEW had violated or exceeded its authority under Title VI. On October 2, 1978, the Supreme Court of the United States denied *certiorari.*

In February 1974 a task force of 51 persons representing a cross section of the city's business and professional leaders as well as representatives of each of the nine administrative regions in the district was appointed by the school superintendent to involve the community in development of a desegregation plan. The task force's report, which included various proposals, led to development of a plan that included rezoning of attendance areas, pairing,[15] and the creation of citywide secondary schools with special emphasis programs. The plan, which did not involve transportation for desegregation purposes, was implemented in 1975.

Faculty and student training programs accompanied desegregation. In the summer of 1975 the district held a 3-day "Desegregation Implementation Work Conference" as part of the desegregation plan. The district formed and trained "positive intervention" teams to work in each of the affected schools. The teams consisted of school counselors, parents, students, teachers, school security staff, community persons, and a staff person from the school district's regional office. Since 1975 similar training has been conducted under Title IV of the Civil Rights Act of

[15] Pairing or clustering of grades or schools are school desegregation techniques and are achieved when the attendance areas of two or more nearby schools are merged so that each school serves different grade levels for a new, larger attendance area.

1964. Conferences and workshops on human relations have taken place in 26 schools.

In the 1977–78 school year, 1,605 pupil suspensions were reported, of which 86 percent involved nonwhite students. In 1975–76, 91 percent of 1,680 suspensions involved nonwhites.

At present, the legal status of school desegregation in Baltimore has not been resolved. Maryland officials reportedly expect their motion for a permanent injunction against termination of Federal aid to be met by an HEW petition to dissolve that injunction. The court of appeals noted the potential national importance of this case and urged the district court to reach a judgment as expeditiously as possible. Meanwhile, HEW estimates that 60 percent of minority students are currently attending all-black schools.

Baton Rouge, Louisiana

Profile

Total public school enrollment in Baton Rouge has increased slightly, from 63,158 in 1970 to 67,283 in 1978. Black enrollment rose from 38.1 percent of the total in 1970 to 40 percent in 1978. Since 1970 the school district has maintained a 65 to 35 white-black ratio of faculty and administrative staff, and each school within the district maintains this composition. No blacks are currently on the school board, although one black filled an unexpired term during 1973–74.

Federal aid to Baton Rouge schools over the past 2 years amounted to $11,285,223. That total included over $3.7 million for Elementary and Secondary Education Act (ESEA) programs, primarily Title I; $630,000 for programs for the handicapped; and almost $528,000 for Emergency School Aid Act (ESAA) programs. ESAA funds have supported student seminars, designed to acquaint students with persons of differing cultural backgrounds, and an interpersonal relations counseling program. Forty-five teacher aides have been hired to improve teacher performance in multicultural settings.

Desegregation Status

The original suit to desegregate the East Baton Rouge Parish (county) schools was filed with the U.S. District Court for the Western District of Louisiana in 1956. The court ordered school desegregation in 1970, and the school board's desegregation plan was accepted by the court in 1975. The plan, based upon the neighborhood school concept, does not include busing. Dissastisfied with the plan, local civil rights leaders have filed an appeal with the U.S. Court of Appeals for the Fifth Circuit, and a decision is expected shortly.

Several community committees have formed to facilitate desegregation. These include the following: a biracial advisory committee for magnet schools; an ESAA districtwide advisory committee, whose membership is half black and half white, to help implement and evaluate ESAA programs; a court-appointed committee (also half white and half black) to advise the school district on matters related to school desegregation; and student advisory committees whose function is to help implement ESAA programs and help resolve student problems.

According to the superintendent of schools, the white community generally accepts existing desegregation but probably would oppose any plan that requires busing or other plans that do not preserve neighborhood schools. Black civil rights leaders argue that the current plan does very little to dismantle the dual school system. At present, almost 75 percent of all black students in East Baton Rouge attend predominantly black schools (over 50 percent black). Over 60 percent of black students attend schools with 90 percent black enrollment, and in 70 of the 110 schools in the parish, at least 90 percent of the students are of one race. The faculties are desegregated on a ratio of 65 white to 35 black, but black community leaders allege that the most inexperienced white teachers are placed in predominantly black schools, while the most experienced black teachers are placed in predominantly white schools.

Test results provided by the school system in the spring of 1977 showed that students in virtually all-black schools scored considerably lower than their white counterparts in racially mixed or nearly all-white schools.

In 1970, of 1,502 suspensions, 57.5 percent were of black students. Suspensions increased dramatically by 1977–78 to a total of 10,844, and black students again comprised 57.5 percent of the total.

Black community leaders, who feel that the all-white East Baton Rouge School Board is insensitive to the needs of black students, recently were successful in securing passage of legislation mandating the election of school board members by single-member districts, beginning with the 1982 elections.

This change could result in the election of at least two blacks to the board.

Boston, Massachusetts

Profile

Total public school enrollment in Boston totaled 62,690 students for the 1978–79 school year. This represents a decrease of 3,000 from the total in 1977–78 of approximately 65,000. Nonwhite or non-Anglo students represent a majority of students attending public schools in Boston for the 1978–79 school year. The student body includes 28,443 blacks, 24,660 whites, and 9,547 others, primarily students of Hispanic origin. The school district's faculty for the 1977–78 school year totaled 5,133, including 4,283 whites, 649 blacks, and 201 others. The Boston School Committee is comprised of four whites and one black. Prior to 1978–79 all committee members were white.

The Boston school district in FY '78 received $5,448,806 in Elementary School Aid Act (ESAA) funds, $8,849,604 in Elementary and Secondary Education Act (ESEA) funds, and $4,998,999 in Bilingual Education funds. In FY '79 these figures were $4,496,602 for ESAA funds, $10,390,677 for ESEA funds, and $5,427,000 in Bilingual Education funds, which includes $306,238 for the *Lau* compliance unit. Teachers have received little school desegregation training.

Desegregation Status

The Boston public school system has been gradually desegregated under court order since 1974 through redistricting, the creation of magnet schools, and mandatory busing involving black and white schools. In 1975 the Federal district court placed South Boston High School in receivership because of the Boston School Committee's failure to carry out the court's desegregation order. Since 1976 there have been no major changes in the desegregation plan. However, the desegregation of kindergarten was ordered in May 1977 under the third phase of the plan. In 1978 approximately 150 schools were desegregated, and minority student enrollment at those schools approximates that of white enrollments. About 10 predominantly white schools in East Boston have been excluded from the desegregation plan.

Also in 1978, the Federal district court removed South Boston High School from receivership, and a decision was made to phase out the citywide coordinating council, a court-established citizen advisory committee, by the end of the year. Thus, authority for desegregation efforts has been returned by the court to the School Committee and school staff.

Desegregation of district schools has reportedly increased parental participation in school affairs. Community groups involved in the desegregation process consist of a citywide education coalition and the court-ordered parent advisory councils (CPACs) and community district advisory councils (CDACs). The termination of the citywide coordinating council has left the CPACs and CDACs with the major responsibility for involvement. Business and educational institutions have also become involved in the educational process, and tensions as well as pupil suspensions have decreased. In the 1977–78 school year total suspensions were 4,891, of which 63 percent were black, 30 percent were white, and 7 percent were Hispanic, Asian American, and American Indian. The figures demonstrate that blacks were suspended at double the rate of whites.

The school system has continued to lose both black and white students who are transferring to private or parochial schools in the city. Other problems include continuing activity by antibusing groups, occasional racial incidents in the community, unresolved bilingual issues, and underrepresentation of black and Hispanic teachers and administrators.

Buffalo, New York

Profile

Total student enrollment in Buffalo for the school year 1977–78 totaled 53,764 students. This figure included 26,285 whites, 24,615 blacks, 2,054 Hispanics, 729 American Indians, and 81 Asian Americans. In the 1970–71 school year there were 41,076 whites, 27,157 blacks, 1,535 Hispanics, 456 American Indians, and 76 Asian Americans. The school district's faculty in 1977–78 included 3,098 whites and 445 minorities, compared to 3,207 whites and 385 minorities in the 1970–71 school year. Administrative staff in 1977–78 included 192 whites and 36 blacks. In 1970–71 the figures were 263 whites and 24 minorities. There are currently three blacks and six whites on the school board, which represents an increase of two blacks since the 1970–71 school year. Buffalo public schools received $19.9 million in

Federal assistance in 1977–78, compared to $9.3 million in 1970.

Desegregation Status

School desegregation in Buffalo began with a complaint filed in 1964 by a coalition of black parents, which led to the issuance of a desegregation order by the State commissioner of education. Until 1976 only limited desegregation was achieved through a voluntary open enrollment plan and the Quality Integrated Education program. In 1976 a Federal district court found that the Buffalo school system was intentionally segregated and ordered the city and State to devise a comprehensive plan. Implemented primarily in 1976 and 1977, the plan closed some schools and created magnet schools, made improvements in curriculum at all schools, and involved the voluntary busing of students to those schools. Of approximately 85 schools, 12 remained segregated in 1978, however, and the school administration is considering the creation of 12 magnet schools to desegregate those schools. Since 1976 two magnet schools, a Montessori school, "a follow-through for Head Start" school, and a school specializing in the performing arts for grades 5 through 10 have opened. At least one high school will open in September 1979 as a skill center vocational high school. The superintendent reported that each of the high schools will be "fully integrated by September 1979."

Several desegregation-related programs were conducted in 1977–78, supported by funds provided by the Comprehensive Employment and Training Act (CETA), ESAA, ESEA, and the local school board. The programs, which involved teachers, paraprofessionals and other aides, security guards, and bus drivers, provided training concerning counseling, parental involvement, and human relations.

Buffalo citizens are generally pleased with the desegregation effort, although significant problems remain. These include remaining segregation and underrepresentation of minority teachers, budgetary difficulties, and some continuing resistance to busing. However, some community residents believe improvements in the schools may have encouraged some whites to return to the city. They point to a waiting list for admission to several magnet schools as proof of that theory.

Several community groups have formed to deal with desegregation-related problems in the city. These include the Superintendent's Advisory Committee, which is composed of officials of colleges and universities, chamber of commerce members, community leaders, labor leaders, and the clergy; the School Security Committee, consisting of city-county law enforcement officials; the Human Relations Advisory Committee, including parents, teachers, administrators, and students; and the Advisory Committee on Title IX, comprised of community organization representatives.

The district has an affirmative action program for recruitment of minority teachers, and the teachers' examination procedure reportedly has been modified to encourage greater participation by minority applicants.

Burley, Idaho

Profile

Total public school enrollment in Burley in 1977–78 was 4,765, including 88.9 percent Anglos, 9.9 percent Hispanics, 0.9 percent American Indians, and 0.3 percent Asian Americans. Total enrollment in 1970–71 was 4,643, including 91.1 percent Anglos, 7.2 percent Hispanics, 1.4 percent American Indians, and 0.3 percent Asian Americans.

Faculty and administrative staff in 1977–78 totaled 267 certified staff persons, of whom 262 were Anglos and 5 Hispanics. Noncertified staff totaled 206 in the same year, including 182 Anglos and 24 Hispanics, who are in the district's career ladder programs to train teachers. There has been one Hispanic member of the Burley school board since 1970.

Federal funding for various minority educational programs in Burley totaled $430,000. These funds include four grants: ESEA Title I, $214,000; Title I, Migrant, $93,000; Title VI, Civil Rights, $26,000; and Title VII, Bilingual, $97,000. The district has received assistance from the General Assistance Center in Portland as part of its agreement with HEW/OCR on *Lau* compliance. District teachers also obtained human relations training from the Title VII assistance center in Seattle, the three Idaho universities, out-of-State colleges and universities, and from professional educational consultants.

Desegregation Status

In 1974 an HEW/OCR review found at least one instance of migrant children being bused past an exclusively Anglo school to a more distant Chicano school. The school district eliminated this practice in 1976 through a desegregation plan that changed

attendance boundaries for elementary schools, created new facilities, and redistributed elementary students among Burley's schools. HEW's Office for Civil Rights and Burley school officials also negotiated the issues of bilingual-bicultural curriculum, special education classes for Mexican American children, student discipline procedures, and parental involvement.

Four committees were set up as part of the district's settlement with HEW/OCR: a curriculum advisory committee, a discipline-dropout prevention committee, and committees on affirmative action and special education. All of these groups now include Hispanic and Anglo members. These committees reportedly have functioned sporadically during the past 2 years but continue to advise the district.

The district's desegregation efforts are not openly supported by the entire Anglo community, but local leaders believe that acceptance is increasing. Mexican American parents believe their children are getting a slightly better education as a result of desegregation.

School officials, community workers, parents, and students identify two major problems in Burley schools as the lack of bilingual teachers and the disparate disciplinary treatment of Chicano students. As noted, only 5 of the 267 certified teachers in the district in 1977–78 were Hispanic. Two bilingual Anglo teachers recently hired are included in the 267 total. Despite additional fringe benefits, career ladder programs for teachers and aides, and an extensive search, the district's recruitment program for Hispanic teachers has not been successful.

Mexican American students have complained of discriminatory treatment by Anglo teachers. In 1977–78 there were 39 student suspensions, including 34 Anglos and 5 Hispanics. In 1972–73 there were 49 suspensions, including 43 Anglos, 5 Hispanics, and 1 American Indian.

The Mexican American community believes that correcting the above two problems could result in significant gains in the number of Mexican American students who complete high school.

Charlotte-Mecklenburg, North Carolina

Profile

Pupil enrollment in Charlotte-Mecklenburg schools in the fall of 1977 totaled 79,116, of whom 36 percent were black. Total enrollment in 1970 was 79,557 students, of whom 31 percent were black. The teaching faculty of the Charlotte-Mecklenburg schools in 1977 totaled 4,670, of whom 28 percent were black. This represented an increase since 1969 when about 26 percent of the system's teachers were black.

As the Charlotte-Mecklenburg system expanded, the number of principals grew from 102 in 1969, when 19.7 percent were black, to a 1977 total of 106, of whom 22.6 percent were black. During the 1970–71 academic year, the school board was made up of 9 white members; by 1977–78, the board had grown to 11 members and was chaired by 1 of its 2 black members.

During the 1978–79 school year, the district received Federal funds under ESEA Title I, $3,464,150; ESEA Title IV, $242,553; ESEA Title VII—bilingual, $175,000; and ESAA—basic desegregation, $1,071,307.

Desegregation Status

Ten years of litigation in *Swann* v. *Charlotte-Mecklenburg* ended in July 1975 when U.S. District Judge James McMillan put the school desegregation case on inactive status and ordered the school system to monitor and prevent any resegregation. The court-ordered desegregation plan implemented in 1970–71 was the first in the Nation to use busing to achieve complete desegregation. With minimal revisions the plan kept the system's 106 schools within the court-mandated enrollment range of 70 percent white and 30 percent black.

The 1970-71 plan involved redrawing attendance lines and desegregating satellite zones for assigning high school and junior high school students. Zoning, pairing, and grouping were used in the assignment of elementary students. The desegregation plan was modified in 1974 with court approval. Approximately 5,000 students (mostly elementary students) were reassigned for the 1978-79 school year in order to maintain the roughly 30 percent black and 70 percent white ratio in the schools. Nine schools had become predominately black.

The school superintendent believes the community, including various groups that had opposed it, now accepts school desegregation. The extensive use of busing to achieve desegregation remains unpopular, however.

Students have provided positive leadership within the schools and in the community itself since 1970. The director of the Charlotte-Mecklenburg Community Relations Committee says that involvement of both students and citizens is heavily relied upon in all school matters, including curriculum. The Parent Teachers Association now includes students, and the NAACP as well as two other nonprofit groups have special programs to help students. A committee of parents, teachers, administrators, and students recently completed an 8-month study of junior high schools and made suggestions for improvements.

Discipline, segregated classrooms, and proper counseling are considered by black and white leaders as significant challenges still faced by the school system. During the 1972–73 school year, more than 3,500 suspensions were made—60.7 percent of these were black. By 1975–76, the total had been cut to under 3,000, but the black suspensions remained disproportionately high, at nearly 59 percent.

With cooperation from school officials, the number of racially identifiable classrooms is decreasing, but is still considered a serious problem. In elementary schools only 1 percent of the classes are racially identifiable by HEW standards; 10 percent of the junior high classes and 28 percent of the senior high classes are counted as racially identifiable.

The school superintendent believes that Charlotte has a real sense of community pride about its schools and the way in which they have been desegregated. He promotes this attitude in the community, saying, "Let's do this because we know it's right for the kids, not just because the courts require it." Under the watchful eyes of HEW and local civil rights leaders, his attitude appears to be spreading among students and parents in the Charlotte-Mecklenburg area.

Chicago, Illinois

Profile

Total school enrollment in 1977–78 was 512,052, including 59.9 percent blacks, 23.2 percent whites, 15.1 percent Hispanics, 1.6 percent Asian Americans, and 0.2 percent American Indians. In 1970 the student population was higher at 577,679 with blacks representing 54.8 percent, whites 34.7 percent, Hispanics 8.9 percent, and Asian Americans 0.7 percent.

Administrators include 61.5 percent whites, 35.8 percent blacks, 2.1 percent Hispanics, 0.2 percent American Indians, and 0.4 percent Asian Americans. In 1970 administrators were 71 percent white, 28 percent black, 2 percent Hispanic, and 2 percent Asian American.

In 1977–78 the school district's faculty was 52.9 percent white, 42.3 percent black, 3.6 percent Hispanic, 1.1 percent Asian American, and 0.1 percent American Indian. These figures show an improvement in minority representation among teachers since 1970 when the figures were 64.5 percent white, 34.2 percent black, 0.6 percent Hispanic, and 0.6 percent Asian American. The 10-member school board has 7 white and 3 black members. In 1970 the board included 8 white and 3 black members.

Total Federal aid to Chicago schools in 1977–78 amounted to approximately $155 million. Federally-assisted programs included approximately $55 million in Elementary and Secondary Education Act (ESEA) Title I monies, $2.5 million for bilingual education programs, $44 million for the lunch program, and $4,116,535 for miscellaneous education programs. For the fifth time, requests for funds under the Emergency School Aid Act (ESAA) have been denied.

Desegregation Status

The Chicago school board has been found in noncompliance with Federal and State regulations governing desegregation of pupils and teachers on several occasions since 1964. Except for withholding ESAA funds, the Federal response has been to seek voluntary compliance rather than to impose sanctions. In 1963 the State passed the Armstrong Act requiring the revision of attendance patterns where necessary in order to eliminate racial segregation of pupils. Implementing regulations were promulgated in 1971.

In 1976 the Illinois State Board of Education found the Chicago school district in noncompliance with State pupil desegregation guidelines. The district was placed on probation and ordered to create a plan to desegregate Chicago schools. The Chicago school board submitted a plan to the State in April 1978 entitled "Access to Excellence" in which various educational programs were proposed to improve educational opportunities and to encourage desegregation. Magnet schools and academic and language interest centers were among the proposed programs. The plan accepted some of the recommendations submitted by a citywide advisory committee composed of white, black, and Hispanic

parents and community leaders. However, the committee's recommendation that a mandatory backup plan be included with the voluntary plan, as required by State regulation, was rejected.

The Illinois Board of Education provisionally accepted the Chicago school board plan but cited seven deficiencies. These included the plan's failure to meet State desegregation guidelines on pupil assignment and the absence of a mandatory backup plan should the voluntary plan fail to achieve its goal. The State board directed the Chicago board to remedy the deficiencies by December 1, 1978.

After finding Chicago schools to be in noncompliance with ESAA regulations, the Office for Civil Rights of HEW and the Chicago school board agreed in October 1977 to a plan for desegregation of teachers and for special services to children of limited English-speaking ability. In June 1978, the U.S. Office of Education for the fifth time declared Chicago schools ineligible for ESAA funds. The Office for Civil Rights cited the board's failure to comply with its earlier agreement to desegregate faculties and provide special services to pupils of limited English-speaking ability. Negotiations on these determinations of noncompliance and on a possible Title VI review of the Chicago public school system continue.

In 1976, Chicago ranked first among Region V (Minnesota, Michigan, Wisconsin, Illinois, Ohio, and Indiana) school districts in the number of minorities suspended or expelled. This included 5 percent blacks, 4 percent American Indians, 3 percent whites, 3 percent Hispanics, and 1 percent Asian Americans.

The Chicago school board is operating at an apparent financial deficit. The "Access to Excellence" plan may cost an estimated $168 million in 5 years. Whether Federal and State monies will be provided to cover these added expenses is uncertain. Meanwhile a group of businessmen has donated $150,000 to promote the plan.

The issue of school desegregation remains a critical one in Chicago. Recently, a group of parents filed suit to prevent further desegregation of the Chicago schools. The NAACP is considering a suit to force desegregation. The media provided active reporting and editorial comment. Political and civil leaders have been accused in the press and elsewhere of lack of leadership and good faith. The citywide advisory committee, established by the school board in May 1977 to develop a desegregation plan, is now an ad hoc group that is no longer officially operational.

Clark County (Las Vegas), Nevada

Profile

The Clark County school district serves the cities of Las Vegas, North Las Vegas, Henderson, Boulder City, Moapa Valley, and Virgin Valley. Total public school enrollment in Clark County, Nevada, in 1977 was 83,956, including 78.6 percent whites, 14.9 percent blacks, 4.5 percent Hispanics, 4 percent American Indians or Alaskan Natives, and 1.6 percent Asian or Pacific Island Americans. Total enrollment in 1971 was 73,745, including 82.9 percent whites, 12.9 percent blacks, 3.4 percent Hispanics, 0.3 percent American Indians, and 0.6 percent Asian or Pacific Island Americans.

The total number of faculty members in 1977 was 3,776, including 3,253 whites, 357 blacks, 124 Hispanics, 32 Asian or Pacific Island Americans, and 10 American Indians or Alaskan Natives. In 1972 the total number of faculty members was 3,126, including 2,847 whites, 210 blacks, 50 Hispanics, 10 Asian Americans or Pacific Islanders, and 1 American Indian. In 1977 the total number of school administrators was 238, including 216 whites, 20 blacks, 1 American Indian, and 1 Hispanic. In 1972 the total number of school administrators was 213, including 201 whites, 11 blacks, and 1 Hispanic. In 1977–78 the school board included six white members and one black member. In 1971–72 all board members were white.

Federal aid to Clark County schools amounted to approximately $12.8 million in April 1978, including P.L. 874 and school lunch funds. Examples of some of the sources of funds include the Elementary and Secondary Education Act (ESEA) $2,102,452; Comprehensive Employment and Training Act (CETA) ($692,306); Vocational Education Act ($479,199); Johnson-O'Malley ($68,216) which provides funds for Indian students who live on reservations; and the Indian Education Act ($17,792).

District figures for school year 1977–78 showed 5,963 suspensions, including 3,630 whites, 1,683 blacks, 310 Hispanics, 38 Asian Americans or Pacific Islanders, and 35 American Indians or Alaskan Natives.

Desegregation Status

In 1971 the Federal district court ordered the district to desegregate its public schools. Prior to implementation of a desegregation plan in the 1972–73 school year, elementary students had been zoned to attend neighborhood schools, with an option to participate in a voluntary desegregation program, which included the use of magnet schools.

A Program of Social Enrichment (POSE) had been designed earlier to facilitate interracial sharing of social and academic learning experiences in order to overcome various fears, misconceptions, and racist attitudes among students and parents. Inservice training for POSE teachers allowed them to plan and improve the program.

The school system's department of equal educational opportunities formed a staff in 1971 to promote and facilitate desegregation in district schools, to promote community liaison with all minority groups within the county, and to implement an inservice education program for the staff.

Under the plan implemented in 1972–73, three types of elementary schools were created:

1. Those schools that had a black student enrollment greater than 50 percent were converted to sixth grade centers.
2. Those schools with less than 50 percent black enrollment were exempted from the plan and remained K–6 schools.
3. Other metropolitan schools were converted to K–5 schools.

Black sixth grade students who were assigned to schools converted to sixth grade centers continued to attend their neighborhood school. White sixth grade students, other than those attending the exempt schools, were transported to sixth grade centers, while students assigned to K–5 schools continued to attend their neighborhood schools. Black students in grades one through five who would have attended predominantly black schools were assigned and transported to the K–5 schools.

Other programs related to desegregation began in 1975–76, supported by Federal ESEA funds. These programs provided for training of first grade teachers to cope better with academic or social problems of students from the formerly segregated schools, acquainting parents with their children's new first grade teachers and schools, and forming a task force of teachers to study problems of individual pupils and schools affected by the plan.

Student acceptance has always been good, and it would appear to coincide with current administration and teacher attitudes toward integration. Teacher and parent groups, business leaders, the League of Women Voters, and the NAACP were involved in planning. Some white parents placed their children in private schools, but this is no longer regarded as a problem. Initial opposition to the plan among some school board members, faculty, and staff has lessened, according to school officials. Community leaders believe the process is helping students learn to live in a multiethnic world.

Cleveland, Ohio

Profile

Cleveland's total student population for 1976–77 was 119,516, including 58 percent blacks and 3 percent Hispanics. In 1972 the total student population was 145,196, of whom 57.8 percent were blacks and 2 percent were Mexican Americans. While minority enrollment has increased, white enrollment has decreased by 1.1 percent. Data are not available for minority faculty and administrators for 1977, but 1970 data show that 2,089 of the 5,149 faculty and administrators were minorities—2,068 blacks, 11 Asian Americans, 9 Hispanics, and 1 American Indian.

Ths school board of nine members currently includes one black member. In 1970 two of the nine board members were minorities.

Federal aid to Cleveland schools in 1977–78 amounted to $38,660,000. This consisted of Elementary and Secondary Education Act (ESEA) monies for bilingual education totaling $225,302, ESEA Title I funds at $8,254,518, and English As A Second Language (ESL), at $332,971.

Desegregation Status

In August 1976 the U.S. district court found that the Cleveland school board had, in the past, intentionally maintained a segregated school system. It ordered a desegregation plan requiring that each school in the district have minority pupil enrollments that approximate the percentage of total minority enrollment in the entire school system. As the school administration demonstrated no leadership on behalf of school desegregation, the court appointed a deputy superintendent of schools to develop and implement a plan in compliance with the court order.

The court-ordered plan included pairing school attendance areas to achieve the 10 percent variation limitation. The court of appeals decided in September 1978 to delay the implementation of the desegregation plan until February 1979. The court cited the lack of money to contract for additional buses, the teachers' strike then underway, and the fact that schools were closed as reasons for the delay.

It is expected that 52,000 students and approximately 40 percent of the schools will be affected by desegregation reassignments. Kindergarten pupils and high school seniors will not be involved.

In April and again in May 1978, Cleveland voters defeated proposals for a tax levy, and the Cleveland school system has been unable to meet its payroll. The court, however, has ordered schools desegregated regardless of the levy failure.

According to some officials, the community was initially divided on the school desegregation issue, but it has finally accepted the court order as law. The Community Relations Service of the U.S. Department of Justice reported that public meetings sponsored by community organizations were convened in Cleveland to gather information for the implementation of the court order. Forty-one representatives of 27 community organizations, one representative of the teachers' union, and individual citizens participated in developing the plan. The continuing population exodus from Cleveland encompasses both races and is primarily due to employment and other economic factors, according to local officials.

In 1973–74 minority pupil suspensions were 72 percent of the total. Of the total, 70 percent were black, 28 percent were white, 1 percent were Hispanic, and 1 percent were other minorities. More recent suspension data were not available for this survey.

Colorado Springs, Colorado

Profile

The Colorado Springs school district enrolled 33,106 students in the fall of 1977. Of the total, 9.5 percent were Hispanic, 6 percent were black, and 1.5 percent were Asian American. In fall 1971, total school enrollment was 34,212 students, of whom 9 percent were Hispanic, 6 percent were black, and 1 percent were Asian American.

Despite a comprehensive affirmative action program, minority teachers make up only 9 percent of the faculty, approximately half the proportion of minority pupils in district schools. As of the 1977–78 school year, Colorado Springs employed 1,826 teachers, of whom 91 percent were white, 6 percent were Hispanic, and 3 percent were black. In 1974–75, the district had 1,766 teachers, of whom 93 percent were white, 4 percent were Hispanic, and 3 percent were black. That same school year, the district employed 165 administrators, of whom 93.5 percent were white, 4 percent were Hispanic, and 2.5 percent were black. In 1977–78, 88 percent of the 147 administrators were white, 7 percent were Hispanic, and 5 percent were black. The five-member school board includes four whites and one black, compared to an all-white board in 1970.

The school district budget in the 1977–78 school year was $52 million, which included approximately $1.5 million in Elementary and Secondary Education Act (ESEA) funds for bilingual-bicultural programs, special education, and adult education, to name a few.

Desegregation Status

Colorado Springs School District No. 11 desegregated its high schools voluntarily in January 1970 in order to correct racial and ethnic imbalances. The recommendations of a citizens advisory committee to the school board were incorporated in a report that became the basis of the plan to redraw district boundaries for the four high schools. The boundaries were changed in order to include a representative proportion of minority students in the enrollment of each school. With minor exceptions, junior high schools were not affected by the program.

In a few areas of the city, students were given the option of being bused to a designated school or of furnishing their own transportation to a school of their choice. Busing of both minority and white pupils was necessary, however, to desegregate receiving schools in the district.

In preparation for the opening of a fifth high school in September 1975, another citizens advisory committee was appointed to make recommendations on pupil reassignments. As with its 1970 predecessor, the committee was composed of approximately 40 members who reflected the school district's population by race, ethnicity, and sex. Neither committee functions now. The recommendations of the 1975 committee resulted in the reassignment of 1,110 students, including 189 minorities, from existing schools. Teacher transfers were minimal.

School and community leaders indicate that although some resentment of the program continues among both minority and white parents, the community generally has accepted school desegregation. School personnel and community leaders have made substantial efforts to see that the plan works smoothly. Although the plan includes no formal training for teachers, the school district continues a multicultural awareness program for its faculty. In addition, Colorado Springs sponsors student retreats and plans to increase the cultural awareness element in its curriculum by spring 1980. Parents continue to assist in special programs provided by the school to enhance the process.

Some minority students have complained about disparate treatment in discipline and in teacher-student relationships. In 1975–76, the last school year for which suspension figures are available, the district suspended 1,776 students, of whom approximately 55 percent were white, 24 percent were black, 20 percent were Hispanic, and 1 percent were Asian American. In 1972–73, 1,275 students were suspended; of those 62 percent were white, 20 percent were Hispanic, 17 percent were black, and 1 percent were Asian American.

Student enrollment has steadily declined, from 35,853 in 1973 to slightly more than 33,000 during the 1977–78 school year, in spite of a steady overall population increase in the area. Declining birth rates and movement to the suburbs for economic reasons are considered the chief reasons for the decline.

It is generally agreed that the high quality of education in the district has not been harmed by school desegregation, and it may, in fact, have been enhanced by federally-financed programs, such as bilingual education.

Dade County (Miami), Florida

Profile

Dade County, Florida, is best known for its main city, Miami. The total public school enrollment in Dade County in 1977 was 235,000, of whom 40 percent were Anglo, 31 percent Hispanic, and 29 percent black. The enrollment in 1970–71 was almost 238,800, of whom more than 54 percent were Anglo, 25 percent black, and 20.7 percent Hispanic. The faculty of the Dade County schools in 1977–78 numbered almost 9,800, including more than 64 percent Anglo, almost 25 percent black, and about 11 percent Hispanic teachers. School officials attribute the low percentage of Hispanic teachers to most applicants being certified by the State only to teach Spanish. In 1970–71 the Dade County faculty numbered 10,481. Black teachers were 21.5 percent of this total, but no figures were recorded for the number of Hispanic faculty members. The system's administrative channels continued to be staffed largely by Anglos. Of 225 positions, 77.7 percent were held by Anglos, 13.7 percent by blacks, and 8.6 percent by Hispanics. In 1970–71 the Dade County school board was composed of six Anglos and one black. By 1978–79, the board had five white members, one black member, and one American Indian member.

In 1977–78, the Dade County schools received $28,411,573 in Federal aid. A total of $10,569,979 came from the Elementary and Secondary Education Act (ESEA), Title I. Another $620,000 was received for bilingual education. Assistance under the Emergency School Aid Act (ESAA) totaled $2,897,387. Almost $15 million in funds for impact aid and refugees was also provided.

Desegregation Status

In 1971 the Dade County school district was declared unitary by the Federal district court, but the court established a biracial, triethnic advisory committee to monitor further desegregation developments.

The district conducted desegregation workshops in 1970 for faculty and administrators. Human relations teams that conducted the workshops remain available by request but tend to work more in the area of discipline than on desegregation issues. Multiracial student committees were also formed. Today these groups are multiracial and multiethnic and deal with a variety of student issues.

The school board reported that in 1976–77 its 254 schools included 69 that had a black enrollment of less than 5 percent. Another 10 schools had an Anglo enrollment of 5 percent or less; 10 schools had all-black and 5 had all-Anglo student enrollments.

Dade County's school superintendent reports that community involvement in school desegregation has been substantial. A State law requires that county school districts have citizen advisory committees. The Dade County school district has expanded this requirement and has obtained a private grant to create 180 advisory committees to serve individual schools. Citizens have participated in public hearings where proposed changes in attendance zones were

discussed. Strong protests from Anglo parents at hearings held in 1978 resulted in the school board's rejection of staff recommendations for busing Anglo students to desegregate the only all-black high school and the pairing of predominately Anglo and black elementary schools. The two elementary schools were later paired under court ruling. Increasingly concerned about the quality of education, parents, both black and white, members of the school board, and the superintendent himself are unhappy with the extensive busing of black students and reportedly will accept schools that are essentially segregated. The philosophy of the superintendent is to provide resources to schools according to the needs of students served or, more explicitly, to allocate greater resources to meet greater needs rather than equal resources for unequal needs. According to one school board member, new schools are being built for Anglos moving out of Miami, and Hispanics and blacks are left behind to attend the "desegregated" schools in Miami. The Biracial Tri-Ethnic Committee has made recommendations for maintaining a unitary district and has criticized the district for being overly responsive to Anglo parents' demands.

Minority students fared poorly on a new State literacy test required for high school graduation. Seventy-seven percent of black 11th graders tested for math competency failed, as did 38 percent of Hispanic 11th graders and 21 percent of the Anglos in that grade. The class of 1979 will be the first required to pass the test, which measures competency in communications as well as math. The president of the local NAACP said that a suit against the State department of education is planned because of the disparities in test results. The American Civil Liberties Union in Miami has sued to prevent use of the test in the awarding of high school diplomas. HEW has also expressed concern about the test and has noted that if the examination is given only in English, the use of the test results may violate the rights of Hispanic students.

Regaining and maintaining levels of desegregation previously achieved in Dade County now appears to be the major problem facing the district. Anglos are leaving the city even though they have often successfully pressured the school board not to bus more Anglo students to black schools or to pair additional schools. The black community has carried the burden of transportation thus far and is no longer willing to do so. Hispanics, according to the president of one activist group, are disturbed about their lack of influence on school policy, their substantial underrepresentation on the district school staff, and that Hispanic students, another minority, are those actually desegregating all-black schools.

In 1977–78, pupil suspensions were reduced to 8,135 from a total of 10,117 in 1970–71. The 1977–78 figures indicate that black students, who make up 29 percent of Dade County students, received more than 50 percent of all suspensions that year. Despite these problems, HEW officials have cited the cooperative attitude of school administrators as a reason for optimism in seeking to resolve problems in county schools.

Denver, Colorado

Profile

In fall 1970, 95,754 students were enrolled in Denver's full-time day public schools. Of that total 62.2 percent were Anglo, 22 percent were Hispanic, 14.6 percent were black, 0.8 percent were Asian American, and 0.4 percent were American Indian. In 1977 total enrollment had dropped to 70,118 and the percentage of Anglo students had fallen to 47.1 percent. Hispanics were 29.7 percent, blacks 21 percent, Asian Americans 1.5 percent, and American Indians 0.7 percent of the fall 1977 enrollment. This decrease is attributed to the declining birth rate and various economic factors, but there also seems to be little doubt that some of the decline in Anglo student enrollment was due to dissatisfaction with the desegregation program. At some schools, Anglo enrollment has slipped below court-approved guidelines. Indications are, however, that the enrollments have generally stabilized.

At the same time, the number of minority faculty, administrators, and school board members has increased. The number of minority teachers increased from 466 in 1970 to 717 in fall 1977. Hispanic teachers increased from 2.5 percent of all teachers in 1970 to 7 percent in 1978 and blacks from 7.9 percent in 1970 to 10.9 percent in 1978. Asian Americans and American Indians were 1 and 0.1 percent of all teachers, respectively, both in 1970 and 1978. Minority administrators have increased from 13.1 percent of the total in 1970 to 20.3 percent in 1977. Black administrators increased from 9.4 percent in 1970 to 11 percent in fall 1978. Hispanics increased from 3.1 percent to 8 percent, and Asian Americans rose from 0.6 percent to 1.1 percent of all administrators during that period. As in 1970, there were no

American Indian administrators in fall 1978. In 1970 only one of the seven school board members was a minority person (a black woman). In the fall of 1978, two members were Hispanic, and the board president was black.

Of the total school budget of $168 million for 1978–79, approximately $8.4 million represents Federal aid, much of which funds Denver's bilingual-bicultural programs.

Desegregation Status

On June 19, 1969, eight minority school children and their parents filed suit in Denver against the school district alleging discriminatory treatment because of segregation in the public schools. In 1973 the Supreme Court in *Keyes* v. *School District No. 1* upheld the use of busing to achieve desegregation in Denver and held that systemwide desegregation is justified if it is determined that "an intentionally segregative policy is practiced in a meaningful segment of a school system."

Some desegregation of elementary levels has been achieved by changes in attendance boundaries. However, 46 of the 93 elementary schools were desegregated through the pairing of predominantly Anglo schools with those having large minority student enrollments. In junior and senior high schools, desegregation was carried out exclusively through boundary changes and the establishment of satellite attendance zones—expanded attendance areas that include different ethnic groups from various parts of the city. The Denver plan requires that approximately 19,000 pupils in grades 1 through 12 be transported for desegregation purposes.

School officials and community representatives agree that there is now much greater acceptance of the program by parents and the community in general, although some opposition to busing remains among the white families in southwest Denver. A press survey of Hispanic community leaders in Denver revealed that they are not enthusiastic about desegregation, preferring neighborhood schools in their closely-knit communities. They fear that the district's bilingual-bicultural education programs will be weakened in the newly desegregated schools, but most accept desegregation as a fact of life.

The 18-member Community Education Council (CEC), a multiracial citizens committee appointed by the court to monitor the plan, continues to seek to resolve any desegregation problems that arise. In addition, each school is required to form a human relations committee of faculty, students, and parents to meet with the principal for the purpose of planning the human relations program for the coming school year.

Student acceptance is noticeably greater now compared to previous years, especially in the lower grades, although some self-segregation among minority groups has been observed in classrooms. There have been no incidents of violence during the past year, and the few discipline problems in the district have not been race-related.

Since implementation of the districtwide desegregation plan in 1974, the total number of student suspensions has decreased, although the percentage of minority suspensions has increased. In 1972–73, a total of 6,632 students were suspended, compared to 5,183 in 1977–78. The 1972 figure includes 40.5 percent Anglos, 36.5 percent blacks, 22.6 percent Hispanics, 0.2 percent Asian Americans, and 0.2 percent American Indians. In 1977–78 blacks represented 42.3 percent of total suspensions, Hispanics 31.8 percent, Anglos 25.2 percent, Asian Americans 0.4 percent, and American Indians 0.4 percent.

School officials claim that, far from having a negative effect on the quality of education, the school desegregation program has broadened and enriched the educational experiences available to all students. Most schools involve students and parents in human relations training through programs designed for each school. The faculty is required by the court to participate in human relations training annually. The requirement was 10 hours for the first 2 years of desegregation, but schools currently are allowed some flexibility in the numbers of hours devoted to this training.

Des Moines, Iowa

Profile

Total public school enrollment in Des Moines was 36,480 in January 1978, with 85.9 percent white, 10.1 percent black, 1.8 percent Hispanic, 1.3 percent Asian American, 0.5 percent American Indian, and 0.4 percent other. Total enrollment for the 1970–771 school year was 45,216, with blacks 8.1 percent, Hispanics 0:7 percent, American Indians 0.1 percent, and other minorities 0.2 percent of that total.

The district school faculty now includes 3,317 whites, 259 blacks, 25 Hispanics, 11 Asian Americans, and 5 American Indians for a total of 3,617. Full-time teachers in 1972 included 1,792 whites, 63

blacks, 3 blacks, 3 Hispanics, 2 Asian Americans, and 1 American Indian. The school board's present composition is one black and six whites, as it was in 1970.

Federal aid to Des Moines public schools amounted to over $1,814,324 in 1977–78, most of which ($1.6 million) went to Elementary and Secondary Education Act (ESEA) programs. Special complementary projects, consumer education, Indochinese language projects, Indian education, and projects seeking alternatives to pupil suspension also received Federal funds.

Desegregation Status

In September 1976 HEW/OCR found the Des Moines public school district to be in noncompliance with Title VI of the 1964 Civil Rights Act following a similar finding by the Iowa State Board of Public Instruction. After many public hearings, workshops, and community meetings, the Des Moines school board adopted a voluntary desegregation plan in March 1977 that was accepted by OCR the following April.

The plan, implemented in fall 1977, restructured the assignment of elementary pupils in 10 attendance centers, which included 5 schools with large black enrollments and 5 white schools. The closing of one black school evoked protest from black parents in the affected area.

The grades were restructured so that grades one to three were offered at three of six schools and grades four to six at others. Three school attendance areas were merged to offer alternative educational programs in which heavy emphasis was placed on basic skills with individualized instruction. The plan affects 4,100 elementary school students. At both the elementary and secondary levels, the plan maintains a voluntary transfer program, which was first implemented in 1968. Under the plan no school would have more than 33 percent minority enrollment in 1977–78. Overall, approximately 16,900 students are affected by components of the desegregation plan.

A citywide advisory committee composed of community representatives and organizations advises and consults with district administrators about alternatives that would encourage voluntary transfers and enhance integrated education. Citizens were allowed to comment on the desegregation plan at public hearings held by the school board as well as at workshops and community meetings. The positive leadership demonstrated by the board and the superintendent contributed to a smooth transition for the school district. The school board's plan was supported by local civil rights groups.

Total student enrollment has declined, as has enrollment in the attendance areas affected by desegregation. This has been attributed partly to enrollment in private schools or movement to the suburbs and also to an overall decline of the school-age population within the school district.

Discipline is seen as another issue, although there have been no reports of major disciplinary problems connected with desegregation. Suspension data by race for 1970–71 or 1977–78 were not available, but total student suspensions for those 2 school years were 1,159 and 2,798, respectively. During the 1970–71 school year there were 9 expulsions (2 whites, 7 blacks); in 1977–78 there were 16 expulsions (4 whites, 11 blacks, 1 Asian American). The school board in October 1975 approved a districtwide discipline policy. According to a school board member, there have been many faculty inservice training sessions in an attempt to avoid discriminatory student discipline problems.

Staff development training programs in 1977–78 involved human relations, cultural awareness, and bilingual education. Two district surveys show that students in the merged attendance areas have responded positively to desegregation efforts.

Detroit, Michigan

Profile

Total school enrollment in Detroit in 1977 was 226,288, of whom 81.8 percent were black, 16 percent white, 1.7 percent Hispanic, 0.2 percent American Indian, and 0.1 percent Asian American. In 1971 enrollment was 289,763, including 63.6 percent black, 34.5 percent white, 1.3 percent Hispanic, 0.2 Asian American, and 0.1 percent American Indian.

In 1977 of the 9,515 faculty members, there were 5,170 blacks, 4,239 whites, 60 Hispanics, 37 Asian Americans, and 9 American Indians. In 1971 the faculty of 11,288 included 6,436 whites, 4,763 blacks, 45 Hispanics, 35 Asian Americans, and 9 American Indians. Minority administrative staff increased to 843 in 1977 (827 blacks, 11 Hispanics, 3 Asian Americans, 2 American Indians) from 589 in 1971 (581 blacks, 5 Asian Americans, 3 Hispanics). Detroit's central board of education now consists of

13 members, of whom 8 are black and 5 are white. In 1971 the composition was 10 whites and 3 blacks.

Federal aid to Detroit public schools amounted to $68.5 million in 1977, more than double the 1971 figure of $31.3 million. The 1977 aid included monies under the Elementary and Secondary Education Act (ESEA), Comprehensive Employment and Training Act (CETA) for youths, work experience programs, licensed practical nursing programs, and Emergency School Aid Act (ESAA) projects, among others.

Desegregation Status

Finding constitutional violations in the Detroit public schools, the Federal district court in 1975 ordered desegregation through a plan developed to take effect January 26, 1976. That plan provided for the implementation of educational components in the areas of curriculum, counseling, and testing as well as for faculty and pupil desegregation. Inservice workshops for both staff and students have dealt with magnet schools, intergroup relations, ethnic/minority awareness, crisis prevention, teacher expectations, and human relations. A 1972 court order had mandated cross-district busing, but the Supreme Court of the United States reversed that order in 1974 on the grounds that no constitutuional violations were found in the affected suburbs of Oakland and Macomb Counties.

In August 1978 the Federal district court reaffirmed its 1975 pupil transportation order and told the school board to develop a plan to exchange students from the central city (80 percent black at the elementary level) and the southwest side of Detroit (40 percent white, 40 percent black, and 20 percent Hispanic at the elementary level.) The central school board submitted a plan, as required, to the court at the end of August 1978 that opposed the additional busing required to exchange students. The district court has not taken action regarding the 1978 school board plan.

The initial reaction to desegregation was not as adverse as many had anticipated. Implementation was peaceful. Community participation in the planning process was intense and has continued throughout implementation. The Federal district court established community relations councils at each public school to assist in resolving any problems connected with desegregation. A monitoring commission was appointed by the court in the *Milliken* v. *Bradley* litigation. The commission consists of 80 members with an executive committee of 20. Members serve individually although they have ties to the urban coalition known as New Detroit, the NAACP, the Urban League, Wayne State University, and business, industry, and labor organizations. Another group, more representative of grassroots concerns, the Superintendent's Committee on School Desegregation, was appointed by the superintendent in 1974.

The NAACP, a party to *Milliken* v. *Bradley,* and La Sed, a Latino organization that has tried unsuccessfully to intervene in *Milliken* v. *Bradley,* have also assisted in resolving desegregation-related problems.

Minority students are now over 80 percent of the student enrollment in Detroit public schools. Only about 5 percent of white pupils have transferred since the beginning of the desegregation plan. This is the same rate as before desegregation. Most pupils leaving public schools transfer to either suburban or private schools.

Potential problems exist in the provision of bilingual education and other educational services for non-English-speaking students. State law requires the provision of bilingual education in school attendance areas with 20 or more students whose primary language is not English. Collectively, students in Detroit speak more than 30 languages, with Spanish and Chaldean the two most common.

Some community groups express dissatisfaction with some technical and educational aspects of the plan. The most common complaint is that program improvements do not appear to be directly and positively affecting students. Discipline problems are still present. In 1977, 3,356 students were suspended, of whom 3,076 were black, 263 were white, 12 were Hispanic, 3 were American Indian, and 2 were Asian American. Such school suspension data were not collected prior to 1976.

Action on the vocational education component has been slower than anticipated. Sites for four of the five planned vocational centers have been selected. Two will be located in the northwest quadrant of the city, one will be located in the medical center near Wayne State University, and one will be on the east side of the city. Construction on the medical center vocational school, which will offer courses in health services, has begun. Preliminary approval has been given to the educational aspects at the four centers. The fifth site has not yet been designated but will likely adjoin a vocational school at the city airport.

Fairfax County, Virginia

Profile

The Fairfax County school district in northern Virginia enrolled 132,312 students in fall 1977. Of that total, 91 percent were white, 5.1 percent black, 2.6 percent Asian American, 1.3 percent Hispanic, and 1 percent American Indian. In 1974–75 total enrollment was 136,210, of whom 94.7 percent were white and 5.3 percent minority.

The school district reports that there were 6,521 teachers, including 174 principals and 59 administrators and managers, on its staff in 1977–78. In 1974–75 the figures were 6,126 teachers, 168 principals, and 65 administrative personnel. In 1978–79 there were 450 black teachers and administrators out of a total of 8,000 school employees. Ten of the 122 elementary schools currently have black principals. One of the 23 secondary schools and 1 of the intermediate schools has a black principal, and there is 1 black on the superintendent's top staff.

Fairfax County school board members are appointed by the county board of supervisors. Since 1971–72 three blacks have successively held one at-large seat on the board. Nine students, including one black, have been appointed to the board since 1971.

Federal aid to Fairfax County schools in 1977–78 included $17,067,735 for the school operating fund, with an additional $2,672,881 for the school lunch program. Of the operating funds, $13,021,165 came in the form of Impact Aid. The remaining amount came as categorical grants associated with ESEA Title I, Title IV–B, Head Start, adult education, and veterans education, among others.

Desegregation Status

Desegregation in Fairfax County began with voluntary desegregation in the early 1960s. The school district planned to assign a small percentage of black students to each white school. Black parents and students resisted this arrangement and brought suit to prohibit the execution of the plan. As a result of the suit, in July 1964 the school board was ordered by the U.S. district court not to assign or transfer students solely on the basis of race or color. In compliance with this order, the school board conducted a broad review of school attendance areas and required all students residing in the attendance area served by a particular school to attend that school. This resulted in desegregation, with minority enrollments at individual schools ranging from 0.4 percent to 49.7 percent. In 1967 the first district court determined that the district had complied with its desegregation order.

The establishment of a department of human relations by the Fairfax County school board in 1971 helped create a favorable climate for desegregation. The department has emphasized a multiethnic/racial program approach. It also conducts a program that assists district personnel in acquiring positive human relations skills and attitudes. The department is in close touch with advisory, civic, and parent groups and school personnel in developing a school environment conducive to effective teaching and learning.

The school board has conducted a survey to ascertain the rate of suspensions by race and ethnicity and will soon release its report. In reports received for school year 1974–75, the total number of suspensions was 2,149, including 88.1 percent whites, 11.4 percent blacks, 0.4 percent Hispanics, and 0.1 percent Asian Americans.

A human relations advisory committee consisting of representatives of many volunteer organizations in the county, minority parents, and other persons concerned about human relations issues reports to the school board on the progress of human relations programs in the schools.

The school board has directed implementation of an affirmative action employment plan approved by the board in June 1978. Under the plan, more minorities and women are to be hired in professional, supervisory, and administrative positions. According to the plan, by 1983 racial minorities will constitute approximately 11 percent of the county's professional teaching staff, women will be 45 percent of school administrators, and men will make up 12 percent of the teaching staff at the elementary level. In October 1978 an equal employment opportunity coordinator was appointed.

Citizens groups have been active in school desegregation activities in Fairfax County. They advise the school on problems such as those involving school suspensions. The community groups may also be called upon by the school board to review school board policies, such as those that relate to affirmative action.

Successful desegregation in Fairfax County is attributed, in part, to its relatively small minority population. Another factor is the absence of community groups actively opposing desegregation. Many residents work for the Federal Government and are exposed to diverse racial and ethnic groups. There

appears to have been no significant increase in white student movement to avoid desegregation.

Hillsborough County, Florida

Profile

Hillsborough County public school enrollment in 1977–78 was 112,527, including 20 percent black students and 4.5 percent Hispanics. Enrollment in 1970 was 105,418, of whom 19.4 percent were black and 6.4 percent Hispanic. In fall 1978 the faculty of the Hillsborough County schools included about 17.3 percent black personnel; in 1970 the faculty was 16.2 percent black. Faculty data were not available for Hispanics. The administrative staff totals 450 persons; among this number there are 137 blacks and 25 Hispanics. In 1970–71, at the time of desegregation, the county school board was composed entirely of white members. During 1977–78, the board had one black and six white members.

Federal financial assistance to the Hillsborough County schools in 1977–78 included almost $1,955,044 in programs under the Emergency School Aid Act (ESAA), with $798,132 spent for bilingual programs. Federal grants to aid desegregation programs in Hillsborough County have totaled $35,170,703 since 1970.

Desegregation Status

Legal efforts to desegregate the Hillsborough County schools began in 1958 when the NAACP filed suit against the local board of education. Thirteen years of delay followed, but in 1971 the district court ordered desegregation of the system with individual schools reflecting the racial composition of the system as a whole. Pairing, clustering, grouping, and satellite attendance zones were used to desegregate the district schools. A citizens' school desegregation committee was established by the district to assist in planning for desegregation.

Desegregation resulted in the closing of no traditionally black schools and the busing of most black students for 10 of their 12 years in school; busing of white students was restricted to only the sixth and seventh grade years. Workshops in preparation for desegregation involved educators in training on race relations, multiethnic relations, and interpersonal communications.

School desegregation in Hillsborough County has proceeded since 1971 with strong citizen support and only minor student difficulties in the schools. Some black parents continue to be concerned about the high suspension rate of black students who, at only 20 percent of the total student enrollment, make up more than 42 percent of all suspensions. Some black parents also continue to express dissatisfaction with the 10 years of busing imposed upon their children by the desegregation plan.

Indianapolis, Indiana

Profile

Total school enrollment figures for Indianapolis in 1978 showed an increase in minority enrollment and a decrease in white enrollment since 1970. In 1970 HEW reported a total of 106,239 pupils, including 63.8 percent whites, 35.8 percent blacks, 0.2 percent Hispanics, and 0.1 percent Asian Americans. Total pupil enrollment in September 1978 was 73,655. Of this total, 47.5 percent were black and 0.7 percent were other minorities, including Asian Americans and Hispanics.

The teaching faculty of 4,117 in 1970 included 76.8 percent whites, 22.7 percent blacks, 0.3 percent Asian Americans, 0.1 percent American Indians, and 0.1 percent Hispanics. In 1976–77, 74 percent of the 3,889 teachers were white and 26 percent black. The school board composition in 1978 is the same as it was in 1970, with three black and four white members.

For the 1978–79 school year, Indianapolis received $4.6 million under Title I of the Elementary and Secondary Education (ESEA). These Federal monies support instructional programs, social services, teacher and classroom aides, and supplies and materials, in addition to regular programs. Two Emergency School Aid Act (ESAA) grants have been approved for 1978–79.

Desegregation Status

School desegregation litigation, which has lasted 10 years in Indianapolis, continues. Desegregation across district lines in the metropolitan area was ordered by the court to start in September 1978, but on August 11, 1978, the court stayed that order until the second semester of the 1978–79 school year.

Indianapolis is somewhat unusual in that a metropolitan government, Uni-Gov, which transcends the old boundaries of the city, was created years ago. The school district was not consolidated, however, and housing patterns in Uni-Gov were found to foster segregation. The metropolitan school

desegregation remedy order goes beyond the Uni-Gov boundaries.

Black enrollments at the district's 10 high schools range from 24.2 to more than 81 percent. Twenty-one elementary schools have pupil enrollments more than 85 percent black. Resistance to desegregation has come from a majority of previous school boards and some white community groups. There have been some student disruptions related to racial issues, but they have been minor. Some black community leaders have objected not to desegregation but to the provisions of the plan because they felt busing was a burden imposed disproportionately on black pupils. Religious organizations and civic groups have supported desegregation but have expressed reservations about the actual plan. Some white outmigration has resulted from desegregation, according to community and school leaders.

Several advisory groups have been formed to assist in carrying out desegregation. A school community action team consisting of 25 members, including 9 blacks and 15 whites, is expected to carry on activities dealing with school desegregation and to make recommendations to the school board. The education committee of the chamber of commerce and the human relations task force of the Mayor's Greater Indianapolis Progress Committee are other community organizations actively engaged in furthering the effort.

Several human relations commissions have been established to provide human relations training for students and faculty in the 110 schools of the system. To this same end, in late 1976, Rev. Jesse Jackson of Operation PUSH visited Indianapolis and gave a presentation to the faculty.

According to one school official, surveys on student achievement in 1977–78 showed a marked improvement in test scores of students in some desegregated schools. Two sets of students, second graders and sixth graders, who took the California Achievement Test showed significant gains in vocabulary and reading comprehension.

In the area of school suspension of minorities, the 1976 survey conducted by HEW/OCR ranked Indianapolis fourth among districts in Region V (Wisconsin, Minnesota, Michigan, Illinois, Indiana, and Ohio) with an overrepresentation of minorities among those students suspended or expelled. Of the total number of black children in the school system, more than 14 percent were suspended or expelled. Comparable figures for other groups were whites, 7 percent, and Hispanics, 1 percent.

Jefferson County, Kentucky

Profile

Jefferson County, which includes metropolitan Louisville, had a fall 1978 public school enrollment of 111,000 students, of whom 25 percent were black. Enrollment during 1975–76, when Jefferson County schools were desegregated, was 122,000; black students were then about 23 percent of the total. In 1978 about 18.6 percent of the faculty of the Jefferson County schools are minorities, primarily black. In 1975–76, at the time of desegregation, the percentage of minority teachers was also 18.6 percent. Administrative staff in 1978 numbered 166–87 percent white and 13 percent black. In 1973 administrative staff totaled 144, 83 percent white and 17 percent black.

The elected school board currently has 21 members, 2 of whom are black. In January 1979 the school board will consist of seven members, one of whom will be black.

Federal aid to Jefferson County schools in 1977–78 totaled $25 million. Most of this amount funded school lunch, ESEA Title I, and ESAA programs. Over the past year the schools have been involved in a program of inservice training that has included multicultural awareness seminars, a positive alternatives to suspensions project, and other training supported by general funds and ESAA monies. Students are provided training through the system's human relations program, peer group rap sessions, the alternatives to suspensions project, and an adaptive skills project.

Desegregation Status

In 1956 Louisville area schools began a program of voluntary desegregation, ending a history of total segregation imposed by State law. School redistricting had only limited effect, however, because broad, "free-choice" transfer policies left largely intact the distinctive racial character of individual Louisville schools. In 1971 the Kentucky Civil Liberties Union and the local Legal Aid Society filed a desegregation suit against the county school system. In 1972 the NAACP and others entered court seeking desegregation of Louisville city schools. In mid-1975 the court of appeals ordered prompt desegregation of area

schools in fall 1975; by this time county and city schools had been merged under State law.

The desegregation plan ordered by the district court used school clusters and established a requirement that each school have between 12 and 40 percent black enrollment. White students would be transported 1 or 2 years out of their 12 in school. Black students would be bused for 8 or 9 years.

This plan was implemented but drew strong, sometimes violent, opposition from angry white opponents. Groups opposing the desegregation plan, such as "Save Our Community Schools" (SOCS), have steadily lost strength in the local area, however, and general calm has prevailed in the schools since 1975.

The executive director of the Kentucky Commission on Human Rights describes the desegregation plan for the Louisville-Jefferson County schools as "a good plan which is working out well." He believes that the plan has even had the indirect result of producing increased housing desegregation.

He cited as a problem the high level of black suspensions from classes; black students are about 25 percent of enrollment but almost 53 percent of all suspensions. A further problem is resegregation of many individual schools as shifts in residential patterns have produced white or black enrollments in individual schools that are inconsistent with the desegregation plan. The Kentucky Commission on Human Rights has also concluded from its review of the employment practices of the Jefferson County school system that the schools "have failed to effectively implement affirmative action and follow the personnel procedures ordered as part of the desegregation plan."

Nevertheless, in spring 1978 the Federal district court released the local schools from its desegregation order but noted that the problem of suspensions should be reviewed, pupil transportation should be monitored, and human relations programs in the schools should continue.

Numerous groups have actively involved themselves in the desegregation of the Louisville-Jefferson County schools—among them are the NAACP, the local Urban League, the Task Force for Peaceful Desegregation, Black Protective Parents, and others. The Kentucky Commission on Human Rights has indicated that it and other groups will continue to follow closely the operation of the local schools, watching with particular care the enrollment trends in various schools.

Kansas City, Kansas

Profile

In 1977–78 Kansas City schools enrolled 27,762 students, of whom 53.4 percent were white, 41.4 percent black, 4.8 percent Hispanic, 0.3 percent American Indian, and 0.3 percent Asian American. In 1972 total student enrollment was 32,947, including 61.7 percent white, 34.3 percent black, 3.7 percent Hispanic, 0.2 percent American Indian, and 0.1 percent Asian American. Faculty data for 1977–78 were not made available by the school district, but in 1972 HEW/OCR reported that there were 1,386 teachers, including 1,075 whites, 298 blacks, 9 Hispanics, 2 American Indians, and 2 Asian Americans. Of seven persons currently serving on the school board, one is black and the rest are white. Information on Federal financial assistance was not provided by the superintendent's office.

Desegregation Status

In February 1977 the U.S. district court ruled that five schools in the Kansas City, Kansas, school district represented vestiges of a dual school system. In compliance with the court order, the school district implemented a desegregation plan in September 1977.

The plan converted one all-black high school (Sumner) to a magnet school academy of arts and sciences for the academically talented, closed one junior high school, and gave children attending three black elementary schools the opportunity to attend predominantly white schools. The plan called for the mandatory transfer of 675 black junior high school students, resulting in one-way busing of black children only. Seven other schools, which had become virtually all black since 1954, were left untouched as were four elementary schools with virtually all-white enrollments in 1976–77. In April 1978 the Department of Justice appealed a Federal district court decision in which the racial imbalances in these schools were found not to be caused by any action of the district. That decision is to be reviewed by the U.S. Court of Appeals for the Tenth Circuit.

The plan was developed by school administrative staff under guidelines imposed by the court. Several board members pledged that white students would not be bused involuntarily to the black schools. They were able to make good on the pledge, as the final plan required only black students to be bused.

The past year was marked by orderly transition. Interest in the new Sumner Academy has exceeded expectations. As of March 1978, 975 students (60 percent of them white) had applied for admission. The district will let Sumner's enrollment go as high as 700 during the first year. The academy will stress liberal arts, math, and science; discipline at this voluntary school promises to be strict, the superintendent reports. Students living 1.5 miles or more from Sumner will receive free bus transportation. Special activity buses will be available for students participating in extracurricular activities.

Student attitudes, as measured by occasional media reports, have been positive. The superintendent cited an inhouse review showing that attendance, tardiness, and discipline problems have lessened among former Northeast Junior High School students.

Faculty desegregation was also required by the court. The court accepted the district's proposal to bring about faculty racial balance in each school, with a goal of only 5 percent variance.

The declining number of white students remains a problem. School district figures show that although black and Hispanic totals have held constant over the past 3 school years (around 11,500 and 1,300, respectively), the number of white students fell from 16,734 in 1976–77 to 14,788 in 1977–78. The loss numbered 850 white students in 1976–77 and 1,096 in 1977–78, the year the plan was introduced.

Although recent suspension and expulsion data were not made available by the district, information from HEW's 1976–77 school year survey shows that there were 4,123 suspensions and expulsions in the district during the year. Of that total, blacks accounted for 53.1 percent, Hispanics 4 percent, and American Indians 0.1 percent. No Asian Americans were suspended or expelled.

It is too soon to determine what effect "second generation problems" will have, for example, on such problems as dropout rates and racially disparate suspensions. The quality of education and teachers' salaries are issues of continuing concern just as much as desegregation in the Kansas City, Kansas, school system.

Kansas City, Missouri

Profile

In 1977–78, total public school enrollment in Kansas City public schools was 45,205, including 63.9 percent blacks, 31.4 percent whites, 3.5 percent Hispanics, 1 percent Asian Americans, and 0.2 percent American Indians. In 1970–71, Kansas City enrolled 70,756 students, with 50.2 percent blacks and 49.8 percent others. In the 1977–78 school year the desegregated teaching staff included 2,044 whites, 1,972 blacks, 39 Hispanics, 8 Asian Americans, and 3 American Indians. In 1970, there were 897 white and 316 black teachers in the district. As in 1970, the school board consisted of 6 whites and 3 blacks in 1978.

Federal aid to Kansas City schools amounted to over $11 million in the 1977–78 school year. That total included more than $5,424,000 for Elementary and Secondary Education Act (ESEA) programs, primarily Title I, and more than $3,292,000 for Emergency School Aid Act (ESAA) programs. ESAA monies supported magnet schools including the Lincoln Academy for Accelerated Study.

Desegregation Status

Since 1973 the Kansas City (Mo.) school district has been engaged in a Title VI review and negotiations with HEW/OCR. An administrative law hearing was held, and in December 1976 the judge ruled that the district had failed to dismantle its former dual system. Both HEW and the school district appealed the decision.

In September 1977 the district implemented a plan to eliminate the existing all-white schools. Under the plan each school was to have at least a 30 percent minority enrollment, and the number of schools with minority enrollments in the 30 to 80 percent range rose to 53 in 1977–78, up from 21 the previous year. The plan left untouched "a central corridor," including four high school attendance areas, which remained nearly all-black.

In March 1978 OCR agreed to grant the district eligibility for ESAA funds if it would desegregate Lincoln High (the black school prior to 1954) with the aim of maintaining white enrollment there between 15 and 30 percent. The school is to offer smaller classes and unique course offerings to attract white students.

The district's 1977 plan was developed by a 65-member task force that included wide representation from neighborhood organizations, PTAs, and students. This participation and extensive media coverage of the group's efforts aided greatly in educating the public about the plan. Human relations and multicultural awareness training was provided ad-

ministrators, faculty, and staff. The program also involved students at the affected high schools.

While there have been tensions between racial groups in some schools, incidents have been few and relatively minor. During the 1977–78 school year, 569 suspensions were recorded, 504 of minority students and the rest of nonminorities. Community service agencies conducted a series of student "rap" sessions in six of the desegregating schools, and the district is establishing a program to increase public involvement in school affairs.

The district lost 21 percent of its white students during the first year of desegregation by unofficial district count. The loss of black students, by contrast, was only 6 percent. "Middle class withdrawal" involving black as well as white students, has affected the district for some time, thus it is difficult to determine how much white outmigration was triggered by desegregation. It appears that white children tend to remain in the district if they attend the same school as before desegregation, but leave the district or enroll in private schools if they are to be bused to another school.

As a racially and poverty-impacted district surrounded by white suburban districts (11 of which operate within the corporate limits of Kansas City, Missouri), the Kansas City school district is understandably burdened with problems that, it is generally agreed, existed before desegregation. These include teachers' demands for salary increases, a dearth of school supplies, and the closing of schools because of a declining population. The district is attempting to deal with such problems through a system of magnet schools that will seek to attract out-of-district students, and also through increased involvement from business and community leaders, as well as metropolitan desegregation litigation. In May 1977 the district filed suit in the U.S. district court seeking to involve 18 adjoining school districts in Kansas and Missouri in a long-term desegregation remedy. The suit, strongly recommended by this Commission's Kansas and Missouri Advisory Committees in a January 1977 report, is still in litigation.

Little Rock, Arkansas

Profile

Total public school enrollment in Little Rock increased slightly from 19,657 in fall 1971 to 21,551 in the fall of 1977. Blacks comprised 43.2 percent of that total in 1971 and were 59 percent of the 1977 enrollment. The school district's faculty was nearly 29 percent black in 1970 and just over 31 percent black in 1977. Administrative staff in 1977 was almost 23 percent black, as compared with 16 percent black administrators in 1967. There was one black on the seven-member school board both in 1970 and in 1977.

Federal aid to Little Rock schools during fiscal year 1978 amounted to more than $412,000, three-quarters of which was for Elementary and Secondary Education Act (ESEA) Title I programs. District faculty have participated in courses designed to improve communication in desegregated schools, and the district has employed a curriculum specialist to ensure that minority concerns are included in the instructional program.

Desegregation Status

As a result of the Federal court decision in *Clark* v. *Board of Education of Little Rock School District,* all grades in Little Rock public schools were desegregated by fall 1973. A court-approved biracial committee was formed at that time to smooth desegregation. Since then, the Little Rock school board has made adjustments to maintain desegregation evenly throughout the district. This has led to additional student transportation and a decrease in the number of neighborhood schools. One part of the plan moved all primary schools (kindergarten to third grade) into the western and north-central sections of the city. Although the school board believed that this could slow white outmigration, it put the burden of busing on the black children in the eastern and central sections of the city.

A local civil rights attorney has said, "Whatever the Little Rock school board does or does not do, sooner or later the population of the Little Rock school district—as the district presently is defined—will be almost all black." He advocates consolidation of the Little Rock and Pulaski County school districts as the best long-range method of ending school segregation in greater Little Rock.

Black parents are not particularly happy with the current, recently revised plan but have little political leverage to oppose it effectively. They are concerned with the quality of instruction, faculty desegregation, and the disproportionate suspensions of black students. In 1970, 1,525 students were suspended, of whom 1,119 (73 percent) were black. By 1977 black students were suspended at an even higher rate. Of 1,212 pupils suspended, 1,041 (85 percent) were

black. White parents, on the other hand, express concern over busing, lack of discipline, and lower academic standards.

According to teachers, black and white students in the Little Rock public schools get along well with each other. "Race does not seem foremost in the students' minds anymore, as it was 5 years ago," said one teacher.

Long Beach, California

Profile

In 1977–78 total public school enrollment in Long Beach public schools was 61,167 students, including 65.2 percent Anglos, 16 percent blacks, 12.9 percent Hispanics, and 5.9 percent other minorities. Total enrollment in 1970–71 was 69,927, including 82.1 percent Anglos, 9.1 percent blacks, 6.1 percent Hispanics, and 2.7 percent other minorities. In 1977 the faculty total was 2,463, including 2,105 whites, 220 blacks, 59 Hispanics, and 79 other minorities. In 1970–71 the faculty totaled 3,014, including 2,791 Anglos, 143 blacks, 36 Hispanics, and 44 other minorities. Administrative staff totaled 201 in 1977, including 173 Anglos, 20 blacks, 5 Hispanics, and 3 other minorities. The Long Beach board of education has had no minority representation since its creation.

Federal aid to Long Beach schools amounted to $7,988,054 in the 1977–78 school year. Examples of funded programs are: Elementary and Secondary Education Act (ESEA) programs ($2,791,435); free-reduced breakfast, lunch, and Special Assistance programs ($2,536,188); and vocational education programs ($289,088). The district conducts human relations programs to assist in improving interaction among students, school personnel, parents, and the community. The school district has incorporated courses related to desegregation in teacher inservice training programs for the past 5 years.

Desegregation Status

In 1969 HEW/OCR found that 16 schools in the Long Beach Unified School District were "racially imbalanced." That same year the district adopted a voluntary enrollment policy. In 1973 the school board adopted a policy requiring that any minority junior high school student moving into the attendance area of a school having more than twice the district average minority enrollment be reassigned in order to balance enrollment. According to school officials, the district has also used a magnet school concept to further desegregation.

In 1978, the California State Board of Education issued guidelines to assist local school districts not under court order to end racial and ethnic isolation of minority pupils. The guidelines require that each district establish criteria to determine whether it has schools that are, or are in danger of becoming, minority isolated. If such isolation appears, a plan to eliminate that isolation must be submitted for approval by the local school board.

The Long Beach Unified School District responded by establishing several committees to discuss implementation of the State guidelines and to prepare a plan to complete desegregation of its public schools. The "State Guidelines Committee" was formed in June 1978 to develop by July 1979 compliance recommendations for approval by the Long Beach school board. Meanwhile, according to a district survey of the district's 53 regular elementary schools, 10 are more than 90 percent Anglo and 10 others are more than 40 percent black.

Several other district advisory groups have been in existence to assist in education plans and goals for the district. They include the Poly Community Interracial Council, which has existed for more than a decade and consists of a group of citizens residing near Polytechnic High School; the Long Beach Unified School District Urban Affairs Committee, composed of community leaders who study local desegregation efforts and monitor their progress; and a newly formed independent group known as the Community Task Force on Integration. All of these groups include minority representation.

Los Angeles, California

Profile

Total public school enrollment in Los Angeles in October 1977 was 578,827, including 34.9 percent Hispanics, 33.7 percent Anglos, 24.5 percent blacks, 6.2 percent Asian Americans, and 0.7 percent other minorities. Total enrollment in 1970 was 638,277, including 49.9 percent Anglos, 24.1 percent blacks, 21.8 percent Hispanics, 4.1 percent Asian Americans, and 0.2 percent other minorities. In October 1977 the total full-time certificated staff numbered 24,634, including 69.4 percent Anglos, 17 percent blacks, 6.0 percent Hispanics, 6.6 percent Asian Americans, and 0.9 percent other minorities. In 1970 the minority percentage total of full-time faculty was 23.1 percent.

In 1978 the seven-member school board included one Hispanic, one black, and five Anglos. In 1970 the board was composed of six Anglos and one Hispanic.

In 1977 major federally-assisted programs in the district included bilingual education ($2,763,026); CETA, ($25,360,152); handicapped programs ($3,659,581); and adult education ($1,132,072). Included among numerous district training programs is the student-to-student interaction program begun in 1977 to help students develop and increase their ability to interact effectively in multiethnic student relationships.

Desegregation Status

The suit to desegregate the Los Angeles schools has been in State courts since 1963. In 1976 the California Supreme Court ordered the Los Angeles Board of Education to desegregate its schools. The first desegregation plan submitted by school officials was rejected by the Los Angeles Superior Court in 1976 as inadequate. That court subsequently gave qualified approval to a plan that would affect 65,000 students in grades four through eight out of the district's total enrollment of 578,827. The plan also provided for voluntary desegregation activities, including the development of magnet schools. Of the 65,000 pupils, approximately 35 percent were Hispanic, 34 percent Anglo, 25 percent black, 6 percent Asian American and Pacific Islander, and 0.7 percent American Indian/Alaskan Native. Further, the district, at the request of HEW/OCR, agreed in 1976 to certain goals concerning complete faculty desegregation.

After issuing the preliminary student desegregation order, the Los Angeles Superior Court appointed eight expert witnesses to determine whether the plan should be expanded to include all grades; whether the school board's definition of a segregated school should be changed so that more predominantly Anglo schools could be included; what effect school desegregation would have on bilingual education; and whether metropolitan desegregation would be feasible.

During the 1977–78 school year, the board continued to refine its desegregation plan, emphasizing its voluntary aspects. Once it was determined how many students had enrolled in the voluntary programs, the board determined what mandatory steps would be taken. It formed "educational leagues," groupings of predominantly Anglo and minority elementary and junior high schools, to provide for future mandatory reassignment of pupils in fourth through eighth grades; created districtwide magnet schools; provided for pairing or clustering of schools; and identified "mid-sites" between some paired schools to shorten the length of bus rides.

A department within the Los Angeles Unified School District, Community Network, was established in 1977 to disseminate desegregation information throughout the district. Religious groups, parent-teacher associations, service organizations, social and welfare agencies, and youth groups were designated as contact points for the department.

Community acceptance of desegregation has varied as each step in the process has been implemented. One week before desegregation began, antibusing forces filed a request to delay it. The California Supreme Court and then Justice Rehnquist of the Supreme Court of the United States refused the request. Schools opened on September 12, 1978, without violence or serious difficulty, and city leaders applauded the peaceful beginning.

Two weeks after schools opened, an estimated 30 to 50 percent of the Anglo students scheduled for mandatory busing boycotted the public schools or enrolled elsewhere. By mid-November a considerable but indeterminate number of Anglo students continued the boycott. The school administration has noted the continued loss of Anglos from the district, suggesting that as time passes desegregation of district schools will be increasingly difficult to maintain. In mid-November 1978, the court-appointed committee strongly recommended development of a metropolitan desegregation plan involving numerous communities in the Los Angeles metropolitan area.

In 1976 total pupil suspensions in district schools were 48,262, including 43.9 percent blacks, 32.1 percent Anglos, 27.9 percent Hispanics, 1.3 percent Asian Americans, and 0.2 percent Pilipino. Comparable data for 1970 were not available.

Milwaukee, Wisconsin

Profile

Total enrollment in Milwaukee public schools in fall 1977 was 101,926, including 53.1 percent whites, 40.3 percent blacks, 4.8 percent Hispanics, 1.3 percent American Indians, and 0.5 percent Asian Americans. In 1969–70 total enrollment was 132,349, including 70.3 percent whites and others, 26 percent

blacks, 3 percent Hispanics, 0.6 percent American Indians, and 0.3 percent Asian Americans.

School district data showed 5,705 teaching staff in the fall of 1977, while only 5,609 were reported in fall 1972. Minority teachers currently include 927 blacks, 62 Hispanics, 24 Asian Americans, and 4 American Indians. At present, teaching staff are integrated at two-thirds of the Milwaukee public schools.

The 15-member school board currently has 13 whites members and 2 black members. In 1970 there were 4 whites and 1 black on the board.

District federally-assisted programs for 1978 include Title I ($7,084,833) and Title VII Bilingual Education of ESEA ($270,166); and the Indian Assistance Act ($137,940).

Desegregation Status

On remand from the Supreme Court, a Federal district court judge has ruled on the issue of intentionality in the segregated conditions of Milwaukee's public schools. The judge's ruling paves the way for a decision on what remedy, if any, the school board must take to desegregate the schools. In August, pending resolution of the remedies issue, the judge ordered that the previous court-ordered 1977 desegregation plan remain in effect for fall 1978. The remedies issue was before the court in October 1978.

At the opening of the 1977–79 school year, two-thirds of the districts' public schools were between 25 and 50 percent black, in compliance with the second-year school desegregation plan as ordered by the court. As ordered, a similar balance is being maintained in 1978–79. Hispanics are not involved in the desegregation order, having been denied an opportunity to intervene by the court.

Desegregation, on a voluntary transfer basis, entered its third year in September 1978. The court-approved school board plan calls for schools to be considered desegregated if they enroll between 25 percent and 50 percent black students. (In the first year, the allowed ratio was 25 percent to 45 percent black.) Under this definition, in September 1978, 6 of the 15 Milwaukee senior high schools were desegregated as well as 14 of the 18 middle schools and 83 of 116 elementary schools. At present, one-third of the black and white pupils are being transferred to schools outside their attendance areas pursuant to the court-approved plan. Of those students, 53 percent are black and 17 percent are white. District staff believe that Milwaukee schools can meet the court's desegregation requirements without resorting to mandatory assignments.

In the past, Hispanic pupils were not identified as a majority. Hispanic parents, however, remain concerned about the future of bilingual education programs under desegregation as they are not considered a minority group under the terms of the court order.

Initial participation of parents was considered essential for the desegregation plan's success. Some dissatisfaction, however, has been expressed by parent groups about their limited involvement. According to one community group opposed to desegregation, white outmigration has increased in the past 6 years. The group estimates that more than 9,000 white students have left district schools since desegregation began. Other community groups dispute these figures and suggest that the decrease is due to demographic factors and not to desegregation.

Prior to the court order no formal districtwide staff development programs dealing with desegregation were conducted; however, beginning in fall 1976 such programs were implemented. Emphasis in human relations training centers on crisis prevention-resolution, strategies for reducing racism and sexism, problem identification, and problem solving. Some of these problems are largely interdisciplinary and instructional and are designed to achieve active teacher involvement in the desegregation process. Outside experts are being invited to participate in the inservice courses.

Faculty desegregation has been slow and limited. It has proceeded on a voluntary basis, and most persons interviewed believe it must become mandatory if complete faculty desegregation is to be achieved. Most students have accepted desegregation. Discipline problems are attributed to insensitive teachers who lack human relations training. Some community organizations say that discipline is one-sided and applied much more heavily to black students than to whites. Of all pupils suspended in 1978, 55 percent were black, 36 percent were white, 4 percent were Hispanic, and 1 percent were American Indian. Comparable data for earlier years were not available.

There has been substantial support from community leaders, and several organizations have joined to facilitate the desegregation process in Milwaukee. The NAACP, the Urban League, and the Urban Community Affairs Council of the University of Wisconsin in Milwaukee, as well as the

"Committee of One Hundred" are actively involved in monitoring desegregation issues. The Committee of One Hundred, made up of black and white representatives from each school attendance area, has been working with the school board in an advisory capacity.

Minneapolis, Minnesota

Profile

Student enrollment in Minneapolis public schools in October 1977 was 47,050. Of that total, 16.4 percent were black, 5.4 percent were American Indian, 1.3 percent were Asian American, and 1.3 percent were Hispanic. In October 1972 total student enrollment was 61,889, including 10.6 percent blacks, 3.8 percent American Indians, 0.9 percent Hispanics, and 0.6 percent Asian Americans. Administrative and teaching personnel in 1977–78 were 7.9 percent black, 1.2 percent American Indian, 0.6 percent Asian American, and 0.6 percent Hispanic. In October 1972 administrative and teaching personnel totaled 3,973 with minorities representing 7.8 percent of that figure. The school board's racial and ethnic composition has remained constant since 1970, with one of the seven members a minority person.

Minneapolis schools participate actively in programs supported by Federal funds. Total revenue from Federal sources for 1977–78 was $14,972,691. Federally-assisted programs include, among others, ESEA Title VII Bilingual Bicultural Education ($115,000); special education services to underserved/unserved ($215,488); ESAA ($358,312); Minneapolis Indian Education Project under Title IV of the Indian Education Act ($393,712); and English as a Second Language for IndoChina refugees ($70,200). An ethnic cultural center opened in fall 1973. The center provides inservice training of teachers for a curriculum providing multiethnic/cultural viewpoints.

Desegregation Status

The U.S. district court, which has retained jurisdiction since the initial order in 1972, ruled in May 1978 that the school district must achieve a desegregated system by September 1978, with minority representation limited to not more than 39 percent of any one minority group or 49 percent of combined minority groups at any one school. The judge denied the school board's request to allow a school to be considered desegregated with 50 percent minority pupils.

During the 1977–78 school year, 15 schools (one a junior high and another a high school) were not in compliance with the judge's previous desegregation guidelines of 35 and 42 percent maximum minority enrollments at any school. The proposed plan will increase the number of pupils bused for desegregation purposes. Under the previous voluntary plan, about 12,000 students were bused. Members of the American Indian community have urged the district not to bus Indian students away from schools offering special education programs for Indian pupils. The May 1978 order by the Federal district court rejected the contention that Indians are not a race but a political classification and ruled that Indians should be considered as minorities in drawing desegregation plans.

Parents who have generally gone along with the desegregation plan since its implementation expressed concern over the district's proposals to pair several elementary schools in north and east Minneapolis and the closing of eight other schools in the north and east areas. A group of white and minority parents sued to keep open one of the eight schools scheduled to be closed, contending it provided for a desegregated learning environment. On September 14, 1978, their appeal was denied. Another suit was filed by the school board to remove the presiding judge's jurisdiction over Minneapolis schools. That appeal was also denied and was then appealed to and denied by the U.S. Court of Appeals for the Eighth Circuit.

A school board study of attitudes at elementary schools showed that elementary school students' general attitudes toward schools and their teachers changed little between 1974 and May 1975, regardless of a student's race or the racial composition of the school attended prior to desegregation. In both years black and white children who attended schools that were predominantly black prior to desegregation tended to have less positive feelings about their academic achievements after desegregation than before. Studies of junior high school students, however, have indicated general student satisfaction with their desegregated schools.

Student enrollment has decreased from 70,000 to 44,000 during the past 10 years. A major reason for this decrease is the decline in the birth rate in Minneapolis. School officials report minimal move-

ment of white families from the city during desegregation.

There has been a marked increase in suspension rates for all minority students between 1972 and 1977. Minority suspensions in 1972 were 775 or 32.2 percent of all suspensions. In 1977, 1,130 minority students were suspended, representing 47.7 percent of all suspensions, an increase of 15.5 percent over the comparable figure for 1972.

Mobile County, Alabama

Profile

Public enrollment in Mobile County schools total about 63,800 students, 27,860 of whom are black. The current enrollment ratio of 57 percent white to 43 percent black students represents a slight shift from the years prior to the 1970 desegregation order when the school population was approximately 60 percent white and 40 percent black. The school district's faculty in 1977–78 was made up of 1,813 white teachers (59 percent) and 1,274 black teachers (41 percent). During the 1965–66 school year, the ratio of black to white teachers was the same, but school assignments were then made on a segregated basis. Some black principals lost their posts following school consolidation in 1965. In 1977–78, the Mobile County schools had 22 black and 63 white principals, and the administrative staff consisted of four whites and two blacks. The school board has never had a black member, but a recent redistricting order by the Federal district court may lead to the first black representation on the board.

Federal assistance to the Mobile County public schools currently totals about $7 million, $6,043,000 of which is earmarked under the Elementary and Secondary Education Act. Another $800,000 supports remedial programs. The $7 million in Federal funds amounts to about 9 percent of the total school system budget.

Desegregation Status

The Mobile County school board has been involved in desegregation suits for the past 15 years and is currently operating under a consent decree. An issue now before the Federal district court involves a controversy over the location of new school buildings, an essential element in the current court order on desegregation. A site selection committee of black and white citizens has been appointed by the court to help determine where new school structures should be located.

The school district's current plan provides transportation for all students in the metropolitan area who live 2 miles or more from their respective schools. This policy has increased significantly the number of students, both black and white, for whom the system now provides transportation to and from school. The plan restructured all established elementary zones, creating 21 noncontiguous zones and effected the closing of four all-black substandard elementary facilities.

A source in the community maintains that the original court order clearly did not eliminate the dual school system in the county. Little desegregation is said to have taken place after the original decree in the case, and black civil rights leaders are concerned that 40 percent of the black students remain in all-black schools. Two of the system's 11 high schools are attended only by black students, and 3 of 15 middle schools have all-black student bodies.

Although black students make up 43 percent of the school's total enrollment, they constituted more than 52 percent of the individuals suspended during the 1977–78 school year. This figure represented a decline in black suspensions from earlier years, however.

Further desegregation efforts are to include the transfer of children in rural schools to county schools within city limits. Some black students and parents had been concerned that a proposed magnet learning center would cause the closing of Toulminville, an all-black school of importance to the local minority community. Recently, plaintiffs in the desegregation suit and the school board agreed that the new educational complex will be built on the site of the old black high school—in the heart of the black community—and will retain the name, thereby preserving "Toulminville" as an educational institution.

New Castle County (Wilmington), Delaware

Profile

Total enrollment in New Castle County's new consolidated public schools at the beginning of the 1978–79 school year was an estimated 63,445 students. This figure included 75.6 percent whites, 22.6 percent blacks, and 1.8 percent Hispanics. In 1977–78, the total of 70,941 students included 76.1 percent whites, 22.3 percent blacks, and 1.6 percent Hispanics.

Prior to the 1978 merging of 11 school districts in New Castle County and Wilmington, there were 11 school boards in the areas. There is now one school board for the entire New Castle County School District. Of the five members on this new board, one is black and four are white. An interim board, established by court order in July 1976, operated until January 1978. It has 13 members, 3 of whom were black and 10 white.

In the current school year, there are 3,543 teachers, of whom 82.4 percent are white and 16.7 percent are black. In comparison, of the 4,117 teachers in 1976–77, 81.7 percent were white and 15.9 percent were black.

Under the current desegregation plan, one of the school districts in New Castle County was exempted from involvement. The remaining school districts were divided into four administrative areas with an area superintendent responsible for the operation of each. The area superintendents report to the deputy superintendent for area administration, and the deputy reports in turn to the superintendent of the New Castle County School District.

Most employees in the new school district have been involved in some kind of program to prepare them for desegregation. These programs have been operated either by the human relations department of the school district, the University of Delaware, or the University of Pennsylvania. Approximately 1,600 student leaders attended a human relations workshop and planning session. Faculty and administrative staff attended workshops, conferences, and other meetings. Federal grants have been applied for in order to increase opportunities for counseling and training. Some of the training money may be provided through the Emergency School Aid Act (ESAA).

The amount of Federal assistance to be provided the district during the current year has not yet been fully determined. The district may receive $6.6 million from ESAA. Of that total, $2.4 million may go to the human relations department and $2.3 million to special instructors responsible for correcting the disparity between reading levels of children. The rest of the grant may be used for training and counseling related to desegregation. Two bilingual centers have been established for bilingual education, but the amount of Federal assistance they will receive is still unknown.

Desegregation Status

On July 1, 1978, the Wilmington school district and 10 other districts in New Castle County, Delaware, were merged for the purpose of school desegregation, ordered by the Federal district court to begin in September 1978. Desegregation was originally scheduled to begin in September 1977, but on August 5, 1977, the court granted a postponement. The court-ordered, one-district plan calls for all students to go to suburban schools for 9 years and to Wilmington and DeLaWarr schools for 3 years. The plan affects about 64,000 students, about 21,500 of whom are transported to new schools. Teachers generally have followed their students to the new schools. The plan calls for desegregating both students and faculty.

The Citizen's Alliance for Public Education, an umbrella organization of about 80 community groups concerned with a peaceful transition, and the Community Relations Service of the U.S. Department of Justice provided information to parents and students and encouraged them to comply with the law. The alliance operates on grants. The Positive Action Committee, which opposes school desegregation involving buusing, has been the most vocal community group urging citizens to take all legal means available to avoid compliance.

Community groups, parents, and school administrators sponsored gatherings and open houses at various schools. Religious groups have also encouraged a peaceful transition. Hispanic and black community centers have helped to inform parents and students about desegregation. One of these groups, SANE of Delaware, funded by area corporations, also sponsored meetings in the community to encourage communication about school desegregation.

"The Effective Transition Commission" was established in August 1978 by the Governor. Its function is to monitor school desegregation in New Castle County. Commission members represent a cross section of the county's business, political, community, and professional leaders.

The majority of whites in the county reportedly opposes the court-ordered plan, and there has been white outmigration since 1974. The Delaware Department of Public Instruction, however, has reported little increase in the number of private schools in the area or in the number of students being accepted by private schools.

The black community in the Wilmington-DeLaWarr area is divided over the issue of student and faculty assignment. Black students and faculty in that area will bear the brunt of desegregation, since they will be bused for 9 years to the suburbs, but white students and teachers in the suburbs will be transported for only 3 years to the Wilmington-DeLaWarr schools.

Though the Delaware General Assembly and the Governor oppose court-ordered desegregation and busing, they are now calling for compliance with the law. The original case, *Evans v. Buchanan,* which resulted in the desegregation order, was appealed to the Supreme Court. On September 8, 1978, Justice Rehnquist denied a final appeal.

Desegregation in September 1978 began smoothly without the anticipated violence. Extra police were not needed. However, a teacher strike that began on October 16 and lasted 6 weeks has reportedly undermined the desegregation effort. The strike was held to protest salary disparities and working conditions.

School suspension data were not available for this survey.

New York City, New York

Profile

Total enrollment in 1977–78 in New York City public schools was approximately 1,036,243, of whom 38.1 percent were black, 29.6 percent white, 23.6 percent Puerto Rican, 5.8 percent other Hispanic, 5.8 percent Asian American, and 2.9 percent American Indian.

Faculty and administrative staff in 1977–78 numbered 58,896, of whom 83 percent were white, 11.4 percent black, and 4.9 percent Hispanic. Asian Americans and American Indians totaled less than 1 percent combined. In 1971 faculty and administrative staff totaled 63,336, of whom 89 percent were white, 8.5 percent black, 2.1 percent Hispanic, and 0.4 percent Asian American. In 1977–78 the school board included one black, one Hispanic, and five white members. In 1971 the school board was composed of three whites, one black, and one Hispanic.

Current Federal aid to New York schools amounts to approximately $246,600,000 under Impact Aid, the Elementary and Secondary Education Act (ESEA), the Emergency School Aid Act (ESAA), and other programs.

Desegregation Status

The New York City Board of Education officially adopted policies encouraging desegregation in the 1950s, but only limited desegregation has taken place since then. This has been achieved through rezoning, student reassignment, and voluntary busing. Between 1960 and 1968, an average of 13,000 students were reassigned each year for the purpose of desegregation. In 1974 the Federal district court found intentional segregation in one community school district and approved a plan converting a segregated school into a magnet school for that district. The magnet school concept has since become a model for other school districts in the city.

In 1976 HEW/OCR charged the New York City system with discrimination on the basis of race and sex in the hiring, promotion, and assignment of teachers. In September 1977 the New York City Board of Education signed a memorandum of understanding agreeing to the assignment of some teachers according to race and ethnicity and setting minority faculty hiring goals. A Federal district court ruling vacated the memorandum on procedural grounds, and the board returned to making assignments at random.

OCR also charged the board of education with discrimination against minority female and handicapped students and threatened to withhold Federal funds. In April 1978 the Federal district court in Brooklyn upheld HEW's findings that the school board's employment policies were discriminatory and declared the school system ineligible for $3.5 million of ESAA funds.

According to the school department's director of zoning and integration, white students now make up between 50 and 80 percent of the student population in about 150 of approximately 900 schools. Because of the growing number of black and Hispanic students, a great number of inner-city schools remain almost entirely minority. Desegregation is difficult to achieve because of the loss of white students and the distance required to transport students from the inner-city schools. A disproportionate number of minority students are involved in either mandatory or voluntary busing.

Controversy continues over the city's bilingual program instituted in 1969. As a result of a 1974 suit filed by ASPIRA, a major national Puerto Rican organization, the board of education agreed to institute an expanded program for Hispanic students with limited English-speaking ability. The Puerto

Rican community, however, has continued to criticize the school system's method of screening non-English-speaking students, monitoring procedures, the lack of qualified bilingual teachers, and other elements of the program.

In early 1978 a predominantly white community school district, which receives approximately 4,000 black students who are transported, refused to collect required racial and ethnic data or to accept Federal funds for programs which appeared to be targeted for the minority students. The local school board was suspended for several weeks and was reinstated only after collecting the data.

Ogden, Utah

Profile

In September 1978, the Ogden public school enrollment was 13,800 students, 85 percent of whom were white, 12 percent Hispanic, 2 percent black, 1 percent Asian American, and less than 1 percent American Indian. In September 1970, school enrollment was 16,763, of whom 84 percent were white, 12 percent Hispanic, 3 percent black, 1 percent Asian American, and less than 1 percent American Indian.

In September 1978, 10 of the district's 550 teachers were Hispanic, 9 were black, 7 were Asian American, and 1 American Indian. In 1970–71, of approximately 700 teachers, 11 were black, 6 were Hispanic, and 5 were Asian American. Of 50 administrators in 1978, 3 were Hispanic, 1 was Asian American, and 1 was American Indian. There were no minority administrators in 1970. Numerous Hispanic teaching aides are used in an attempt to compensate for the small number of Hispanic teachers.

The desegregation plan is currently monitored by the district's Title I and VII advisory committees, composed of three whites, three blacks, three Hispanics, and three Asian Americans. Ogden schools receive approximately $300,000 in Federal funds, half of which includes funds under ESEA Title I and VII.

Desegregation Status

A routine HEW/OCR review of school operations in 1969 revealed evidence of racial imbalance in one of Ogden's elementary schools. A plan was drawn up to remedy this situation by redefining existing school boundaries. This arrangement altered the racial distribution in four elementary schools and, in so doing, contributed to desegregation.

Ogden's desegregation plan was prepared by school administrative staff and HEW's Denver regional Office for Civil Rights. While parents and the community at large were not involved in desegregation planning, they were active in the implementation process. Dissatisfaction with the desegregation program has been minimal in the community and among students. No violent racial incidents have thus far been noted. Although some minority and white population movement from the school district has occurred since desegregation, this is attributed largely to economic factors rather than to dissatisfaction with the schools.

It is felt that the overall quality of education in the district has not been adversely affected by desegregation. The president of the local chapter of the NAACP stated that minority student opportunities for better education have been enhanced by the change because of greater parental involvement and an expanded learning environment for pupils. Some high school curricula changes were made to include black and Mexican American historical materials. The school district also provides 50 hours of voluntary cultural awareness training for all personnel. In addition, students receive 20 hours of classroom training on the contributions of minority groups.

Dropout rates for minority students, higher than those for whites, are a matter of concern but do not seem directly related to desegregation. In 1977–78, of the 377 students suspended, 224 were white, 115 were Hispanic, and 36 were black, 1 was Asian American, and 1 was American Indian. Of 467 students suspended in 1970–71, 250 were white, 167 were Hispanic, and 50 were black.

Oklahoma City, Oklahoma

Profile

Total enrollment in 1977 in Oklahoma City's public schools was 45,548, including 32.6 percent blacks, 3.3 percent American Indians, 2.5 percent Hispanics, and 1 percent Asian Americans. Total enrollment in 1970 was 70,557, including 22.8 percent blacks, 3.5 percent American Indians, 1.3 percent Hispanics, and 0.2 percent Asian Americans. The school district's administrative staff and faculty decreased from 3,382, of whom 19.5 percent were black in 1970, to a 1977 total of 2,692, of whom 27.5 percent were black. In 1970 all five school board members were white, but in 1972, one of two new

board positions was filled by a black. At present the seven-member board consists of five whites, one black, and one American Indian.

Federal aid to Oklahoma City schools amounted to $1,125,563 in the 1977–78 school year. That total included almost $567,000 for Emergency School Aid Act (ESAA) programs and nearly $70,000 for bilingual education programs. A human relations program helps students, teachers, and parents deal effectively with desegregation-related problems.

Desegregation Status

The original suit *(Dowell* v. *Board of Education of Oklahoma City)* to desegregate Oklahoma City's schools was filed in 1961. In 1972 the Federal district court ordered desegregation. By 1977 district schools were sufficiently desegregated so that the school board was released from the court order.

In fall 1977, black students comprised roughly 30 percent of the total elementary student body. Fifty-seven of 73 elementary schools had at least 20 percent black enrollments and only 2 had less than 10 percent. Blacks were 34 percent of middle school enrollment. Most middle schools were desegregated, and none had less than 19 percent black enrollment. In the high schools, blacks were 34 percent of the student population. Most high schools were well-desegregated, and only 1 of the 10 high schools had less than 20 percent black enrollment.

School officials reported that blacks accounted for 71 percent of 319 suspensions during the 1977–78 school year, compared to 67 percent of an estimated 190 suspensions in 1971–72.

According to school officials and civil rights leaders, Oklahoma City's political, business, and community leaders have provided little or no leadership on behalf of desegregation. The leadership role fell to the NAACP and the Urban League. The school board recently established a long-range, comprehensive planning committee with broad-based community participation to study all aspects of the educational program, including school desegregation. Further, in September 1976, an affirmative action officer was employed to develop an affirmative action program for staff and students as well as to report on civil rights and equal opportunity matters.

School officials and community and student leaders agree that school desegregation has now been accepted as a reality in Oklahoma City. While student achievement levels have fallen throughout the district, this is not attributed to desegregation. While most feel that desegregation has helped black students, there is concern that lower teacher expectations of black achievement have, in some cases, reduced these gains. Black leaders are also concerned that blacks bear a disproportionate burden in student assignment policies required to maintain desegregation. Lack of transportation for extracurricular activities was also cited as a problem by community leaders, as was minority underrepresentation in administrative positions. School officials acknowledge a steady decline in school enrollment, but attribute much of this to shifts in population not necessarily related to desegregation. Several community leaders also noted a degree of black outmigration. The most significant problem cited by school officials and community leaders is the difficulty of maintaining desegregated schools as Oklahoma City undergoes substantial shifts in population.

Omaha, Nebraska

Profile

Total public school enrollment in Omaha in fall 1977 was 51,943, including 23 percent blacks, 2 percent Hispanics, 0.8 percent American Indians, and 0.5 percent Asian Americans. Total enrollment in 1972 was 63,125, including 19.4 percent blacks, 1.6 percent Hispanics, 0.6 percent American Indians, and 0.3 percent Asian Americans. Of 2,585 faculty members in 1972, there were 202 blacks, 8 Hispanics, 5 Asian Americans, and 1 American Indian. During the 1977–78 school year, 1 of 12 school board members was black, as was the case in 1975–76.

Federal funds support a variety of desegregation-related programs and magnet schools. The district received approximately $800,000 for such programs through the Emergency School Aid Act (ESAA) during the 1977–78 school year. The State board of education has also supported multicultural educational programming in school districts that have substantial numbers of students from different ethnic backgrounds.

Desegregation Status

The Federal district court in Omaha ordered comprehensive desegregation of the Omaha public schools to begin in September 1976. The plan developed by a school district task force from guidelines issued by the U.S. Court of Appeals for the Eighth Circuit included clustering and grade level

attendance centers, both of which required some transportation of students. The order has been reviewed three times by the U.S. court of appeals and twice by the Supreme Court. On the latest appeal, the district court was ordered to review its remedy in the light of *Dayton Board of Education* v. *Brinkman.*

The desegregation effort that began in the 1976–77 school year continues. The plan for elementary schools involves clustering, pairing, and 11 schools that are exempt because their ratios of black to white students are within the appropriate range. There are six clusters. In these the black neighborhood school is the primary grade level center for the cluster. The "feeder schools" in the cluster are predominantly white. These receive black students by assignment in grades four to six. Approximately 15 to 25 percent of these schools' student bodies are black. In addition, students in kindergarten and first grade may volunteer to attend another school. There are also four pairs of schools. All students in the pairs attend kindergarten in their neighborhood schools. They attend early primary grades in one of the schools and later grades in the other (the pattern varies somewhat from pair to pair). Some students in grades seven and eight are assigned to attendance centers for those grades, and some ninth graders are assigned to ninth grade attendance centers. High schools are desegregated on a voluntary basis using voluntary racial transfers and magnet and mini-magnet programs.

About 16 percent of the district's students are bused involuntarily for desegregation. An additional 2.7 percent are transported by choice. Of the approximately 8,600 students transported, 43 percent of the elementary school students and 31 percent of the junior high school students are black.

Concerned Citizens of Omaha, a multiracial group which included all segments of the community, urged all involved to obey the law and accept the plan. Antibusing groups, which attracted some support during the planning period, began to lose members once desegregation was implemented.

Omaha school staff report that "students have cooperated in the desegregation effort" and that there has not been a significant increase in the number of racial incidents within district schools. A local press survey, however, revealed that 32 percent of Omaha teachers thought discipline in the classroom was more of a problem during the first year of desegregation than it had been during the preceding year.

Of 2,714 pupils suspended in 1977–78, 1,484 were white, 1,164 were black, 45 were Hispanic, 16 were American Indian, and 5 were Asian American. Of 249 students expelled, 147 were black, 97 were white, 3 were Hispanic, and 2 were American Indian.

The district reports that, during the first year of desegregation, it experienced some loss of students. It also noted an enrollment decline in the second year of the plan but at a much reduced rate.

Seventy percent of teachers questioned in the press survey thought the educational process was not impeded by desegregation. The district reported that second graders who were affected by the desegregation plan had done as well academically as others from previous years who were not affected. Nor did principals find any difference between the grades of pupils transported for desegregation and others who walked to school.

Philadelphia, Pennsylvania

Profile

Total enrollment in 1977–78 in Philadelphia's public schools was approximately 251,000 pupils, of whom over 62 percent were black and nearly 6 percent were Hispanic. In 1968 total enrollment was 279,744, including 58 percent blacks and 2 percent Hispanics. Thus, total school enrollment declined by nearly 29,000 between 1968–1977, while black and Hispanic enrollments increased. The school board has included two black and seven white members both in 1968–69 and in the current 1978–79 school year.

In 1977–78, faculty and administrative staff numbered 23,903. Of this total, 44.3 percent were black. Professional staff, including teachers, administrators, and counselors, totaled 15,800, of whom 34.2 percent were black. In 1969 the school district reported a total staff of 17,298, 33 percent of whom were black. Of the 14,153 professionals, 30 percent were black.

Staff development programs focusing on desegregation began in 1971. More recently, consultants have been used to provide advice as to necessary training in Philadelphia, give information on the experiences of other desegregating school districts, and conduct human relations training for staff, parents, community leaders, and students. Members of the school board and key administrative staff also visited successfully desegregated school districts. More than 15,000 persons have been involved in

these programs since their inception, according to school officials.

Current Federal aid to Philadelphia schools amounts to $119.5 million. These funds come from approximately 100 different sources to support approximately 200 separate district projects.

Desegregation Status

After a decade of litigation and out-of-court negotiations, the Philadelphia school system has begun implementation of a desegregation plan. As approved by the board of education in April 1978, the plan is to be phased in over a 3-year period, starting in September 1978. It was originally anticipated that the first year would involve citywide voluntary movement of some 5,100 school children from kindergarten through grade 12 in 29 schools. During the second and third years, the number of students who will be moved voluntarily had been expected to increase to 19,500, involving 86 schools. Implementation of the voluntary plan is behind the schedule ordered by State courts, however. School officials contend that the program could not begin in September because of a teachers' strike and the withholding of ESAA funds by HEW pending more desegregation of staff.

Approximately 1,000 of the targeted 5,100 students have transferred voluntarily to desegregated schools. School officials expect that the remaining students will be transferred in February 1979. The voluntary movement of students is expected to be accomplished primarily through the creation of magnet programs and the closing of selected schools. The voluntary student transfer system is expected to achieve desegregation, according to board officials. Some participants in the Citizens' Panel on Desegregation, however, point out that those students who have volunteered for transfers thus far have been blacks who are willing to attend predominantly white schools. No whites have volunteered to transfer to predominantly black schools.

The board has mandated that the Philadelphia plan will be "voluntary." The Commonwealth Court has endorsed that concept, and the State supreme court has upheld it as well, reaffirming that the school district was *de facto* segregated. The State supreme court denied the appeal of the Pennsylvania State Human Relations Commission (HRC) which had requested that contingency plans, including mandatory provisions, be developed for review and readiness prior to the 1980 evaluation set by the lower court. The HRC had requested the contingency plans in case the voluntary system fails. According to HRC, 225 of Philadelphia's 279 schools in 1968 were racially segregated. HEW/OCR found racial segregation in the 1977–78 school system unchanged and possibly even more extensive than in 1968. As of the 1977–78 school year, 42 percent of district schools had racial concentrations greater than 95 percent. During that school year some 200 of 285 schools were considered racially segregated, according to a school official.

Citizens groups have been active in school desegregation in Philadelphia. A community coalition of 40 organizations has been working toward quality integrated education. Another group, the Save Our Neighborhood Schools Committee, opposes desegregation efforts involving such issues as pupil transportation.

The primary organization involved in desegregation has been the Citizens' Panel on Desegregation, organized by the school board's desegregation committee. The panel is an umbrella group representing key elements in the city whose interests affect the schools and vice versa. Panel members represent all racial and ethnic groups.

According to a school district representative, the group's role has been to review, react to, and modify the plans developed by the staff. The panel is viewed by school district representatives as facilitating a "domino" effect, in that each represented group has contributed to the spreading of information about desegregation and related issues to members of their organizations. Some desegregation advocates actively involved with the Citizens' Panel, however, feel that the plans to date have contained little substance, and that neither the mayor nor the school board has exerted leadership in resolving problems related to desegregation. In fact, some Philadelphians regard their city government and the school board as opposing desegregation. Some feel that the protracted desegregation effort has been caused by resistence to actual desegregation.

In June 1978 HEW denied some $6 million in ESAA funds to the district as a result of that Department's findings of racial segregation in teacher assignments.

While school officials transferred some 2,000 teachers in the fall of 1978 in order to comply with the HEW mandate, only a portion ($4.6 million) of the original ESAA amount was then authorized, and none was provided by November 1978. As a result of

these budgetary restrictions, school officials now blame the lack of progress toward student voluntary desegregation on the lack of funds to provide students with incentives to encourage them to transfer voluntarily to desegregated schools. Some participants in the Citizens' Panel, however, criticize school officials for their alleged lack of effort to promote desegregation.

In 1977–78, a total of 31,877 students were suspended, including 24,564 minority students. School suspension data prior to 1977–78 were not available for this survey.

As noted, white student enrollment in the district has declined slightly over the past 4 or 5 years, from approximately 33 to 31 percent. However, according to public officials and community leaders, white outmigration in Philadelphia has little connection with school desegregation, as they claim there has been little desegregation to date.

Pittsburgh, Pennsylvania

Profile

Total public school enrollment in 1977–78 in Pittsburgh was 55,211, of whom 52.7 percent were white, 46.8 percent black, and 0.5 percent others. These figures represent a decline of 17,511 from 1970–71, when total enrollment was 72,722, consisting of 60.1 percent whites and others and 39.9 percent blacks.

The school board was reduced in size from 15 members in 1970 to 9 in 1977. The 15-member appointed board included 10 white and 5 black members in 1970. In fall 1977, the nine-member elected board included seven white and two black members.

The district's inschool administrative staff in 1977 was 164, compared to 154 in 1970. The inschool staff was 62 percent white and 38 percent black. In 1970–71, that staff was 69 percent white and 31 percent black. Public school teachers numbered 3,366, in 1977, an increase from 3,295 in 1970. In 1970 about 88 percent of the teachers were white and 12 percent were black; in 1977, 82 percent of the teachers were white and 18 percent were black.

Federal aid in the amount of $21 million, 13 percent of the total 1977–78 school budget of $160 million, supports various education programs in Pittsburgh. ESEA Title I provides $7.5 million of the $21 million. Resources also come from CETA, Summer Youth, Head Start, Impact Aid, and other programs. The University of Pittsburgh's General Assistance Center has provided training or orientation opportunities for school administrators, teaching faculty, parent representatives, and school board members. These activities support and supplement the district's own training and orientation efforts for these groups and also for students.

Desegregation Status

No school desegregation plan has yet been implemented in Pittsburgh. A 1968 desegregation order obtained by the Pennsylvania Human Relations Commission (HRC) has been in litigation for almost 10 years. A school reoganization plan negotiated and adopted by the school board in 1973 was not accepted by HRC. Plans which the board had submitted in 1968 and 1969 also had not been accepted by the HRC. In 1977 the Commonwealth Court ordered the district to desegregate, whereupon the district appealed to the State supreme court.

On August 11, 1978, the Pennsylvania Supreme Court unanimously rejected an attempt by the Pittsburgh school board to void the lower court's order requiring a comprehensive city integration plan. All six justices affirmed the Commonwealth Court order "insofar as it directs the school district of Pittsburgh to submit to the Pennsylvania Human Relations Commission (HRC) a definitive plan to correct racial imbalance in its schools." The HRC guidelines embodied in the Commonwealth Court order call for a minimum of 28 to 38 percent and a maximum of 53 to 71 percent black students in each school, the percentages varying among the elementary, middle, and high schools. According to the school district's public information director, however, the State supreme court's ruling indicated that these guidelines are not sufficiently flexible. Consequently, "the State Supreme Court directed that the new order to be drawn by the Commonwealth Court contain more flexible elements than presently contained in the State Human Relations Commission's desegregation guidelines." On November 8, 1978, the Commonwealth Court issued a brief order requiring the Pittsburgh school board to submit a "definitive plan to correct racial imbalance in its schools" by July 1, 1979.

The school system remains largely segregated, especially at the elementary school level, although some middle and high schools are integrated. According to the HRC, 87 percent of Pittsburgh's schools were considered segregated in the 1967–68

school year: 90 percent of elementary schools were segregated, as were 86 percent of junior high schools and 85 percent of senior high schools. By the 1976–77 school year the figures were: elementary schools, 84 percent; junior high schools, 45 percent; senior high schools, 69 percent. This amounts to 29,600 students enrolled in 63 schools currently classified as segregated.

The present board took office in 1976 and is the first elected board since 1911. Although the board to date has not formally adopted a program to further desegregate district schools, it has endorsed the development of an extensive magnet school program in which students will enroll on a voluntary basis. The program was begun at two high schools in 1978, and planning continues for more magnet programs in September 1979. The immediate past school board president conceded that "It's highly possible magnets will do nothing to desegregate the system." Meanwhile, continued board resistance to school desegregation was alleged by the school district's solicitor-general, when he resigned and denounced the board as "racist" in December 1977. In June 1978 the school superintendent agreed that desegregation is inevitable. "It's just a matter of whether we do it ourselves or are forced to," he commented publicly. However, the newly elected board president is fiscally conservative and known to favor neighborhood schools. As his predecessor, the new board president has been part of a group that, according to an editorial in the *Pittsburgh Post Gazette,* "has adopted a stonewall policy against fashioning a desegregation plan."

Although talk of white outmigration continues, some argue that those whites who wish to leave because of desegregation have already left or have no option but to stay. The executive director of the Pittsburgh Urban League charged in July 1978 that the board has imposed "such uncertainty and arbitrary changes upon enrollment patterns" that families experience frustration, not "knowing from one year to the next where their children will attend school." This frustration, he implied, could lead to further outmigration.

On September 28, 1978, 27 blacks and whites, reportedly representing the city's population in terms of both race and geography, petitioned the common pleas court to order the school board to adopt a desegregation plan by January 2, 1979. In addition, local civil rights organizations are considering filing complaints over school suspension rates and the disproportionate designation of black students as educably mentally retarded. In fall 1977, there were 389 suspensions (involving 4 days or more), including 77.8 percent blacks and 22.2 percent whites. In 1970, of 315 suspensions, 77.8 percent were again black and 22.2 white.

Meanwhile, in early October 1978, the press reported incidents at a high school with a 75 percent white and 25 percent black enrollment and to which half of the students are transported. For several days, 60 percent of the 1,700 students at the school reportedly stayed home, while disturbances, including fighting, resulted in 24 arrests, 12 suspensions, and in medical treatment for a teacher injured while reportedly trying to stop a fight.

Portland, Oregon

Profile

In 1977–78 this city's total student enrollment was 57,583, including 80 percent Anglos, 13.8 percent blacks, 3.3 percent Asian Americans, 1.6 percent Hispanics, and 1.3 percent American Indians. Total student enrollment in Portland in 1969–70 was 77,806, including 88.6 percent Anglos, 8.6 percent blacks, 1.5 percent Asian Americans, 0.7 percent Hispanics, and 0.6 percent American Indians.

Total faculty and all staff in 1977–78 was 5,873, including 91.1 percent Anglos, 6.8 percent blacks, 1.4 percent Asian Americans, 0.4 percent Hispanics, and 0.3 percent American Indians. Total faculty and instructional staff in 1970–71 was 3,306, including 93.8 percent Anglos, 4.9 percent blacks, 0.9 percent Asian Americans, 0.3 percent Hispanics, and 0.1 percent American Indians. The school board currently has one black member serving an interim appointment.

Federally-assisted programs in Portland include $119,000 for a bilingual program under Title VII, $105,000 for Indian education under Title IV, and $449,227 under Title VII of the Emergency School Aid Act.

Desegregation Status

Portland continues to desegregate its schools voluntarily on a limited scale, relying on voluntary administrative transfers, magnet schools, and relocation of early childhood education centers and middle schools to alter attendance patterns of about 60,000 students.

District administrators believe the plan is working effectively, although not as well as they would like. Student transfers have increased over the past 2 years while overall enrollment is falling. The superintendent reported that the percentage of black students attending racially isolated schools (over 50 percent black) declined from 42.7 percent in 1968—69 to 17.6 percent in 1977–78. Six of the eight schools with more than 50 percent black enrollment have shown a decrease in black enrollment since 1976; nevertheless, six schools remain over 50 percent black.

The district provides inservice training for teachers and staff in human relations, multicultural curriculum and education, and stereotyping awareness. More than 60 workshops and resource meetings have been held in the past 3 years on related topics. Portland schools have also held workshops for parents at both sending and receiving schools involved in the district's voluntary transfer program. Student counseling concerning transfer and magnet school alternatives also continues.

Anglo and minority leaders endorse the ultimate goal of desegregation, but there is growing public concern among blacks about a busing program in which black students bear the major burden. Some 32 percent of black students but less than 2 percent of the city's white students are transported. The Community Coalition for School Integration, representing more than 30 civic groups, recently conducted open forums throughout the city on desegregation in Portland. The concern most frequently mentioned by the 432 participants was the inequity of busing for desegregation. Early childhood education centers have been established in black neighbornoods to attract white students as one means of reversing this situation. Middle schools are being created with attendance boundaries drawn to reduce racial isolation. Such efforts may conflict, however, with concern over "neighborhood integrity," a major interest of Anglos in the coalition's sampling of public attitudes.

The coalition aired its report to the Portland school district in public hearings that began in September 1978. The report describes current desegregation programs as ineffective and inequitable and recommends a mandatory, two-way busing system. The committee has proposed a system of school "clusters" with mandatory, two-way transfers of students within each "cluster." Such a plan could affect between 3,000 to 7,000 students each year. School officials will comment on these specific findings and recommendations after the committee's final report is submitted to the school board in November.

Student suspensions for 1977–78 were 3,730, including 63.2 percent Anglos, 34.5 percent blacks, 0.6 percent American Indians, 1.2 percent Hispanics, 0.5 percent Asian Americans. The district was required to revise its student disciplinary policies before it could receive ESAA funds. OCR staff monitoring indicates that the new procedures are effectively reducing disparities in the disciplinary treatment of minority students.

School administrators and coalition members alike express satisfaction with the thorough coverage of desegregation issues by local media. They feel that balanced, timely reporting is important in ensuring the continued cooperation of Portland's citizens in its move toward integrated schools. A recent survey taken by an independent polling firm found that the great majority of parents of children involved in the transfer plan are satisfied with the quality of education their children are receiving.

Providence, Rhode Island

Profile

Total public school enrollment in Providence in March 1978 was 19,327. That figure included 59 percent whites, 24.9 percent blacks, 7.5 percent Portuguese, and 6.3 percent others, including Hispanics, American Indians, and Asian Americans. Total enrollment has decreased since the 1970–71 school year when there were 25,181 students, of whom 20,049 were whites and 5,132 were minorities. The school district's faculty during 1977–78 totaled 1,119, including 87 blacks and 4 Asian Americans and American Indians. In 1974–75 staff and faculty totaled 1,186, including 100 blacks, 15 Hispanics, and 2 Asian Americans.

In 1978 the district received approximately $5 million in Federal aid that funds approximately 12 programs. That figure included $2.3 million in ESEA Title I funds and $65,000 in ESEA Title III funds. ESEA Title IV funds amounted to $200,000 and funds for the bilingual programs equaled $650,000.

In 1970 and in 1978 the school board was composed of seven whites and two blacks.

Desegregation Status

In response to community pressure in 1967, Providence began desegregation. The board volun-

tarily desegregated 27 of the district's 29 elementary schools. Desegregation of the middle and junior high schools took place in 1970, and high school desegregation followed in 1971. The board relied primarily upon redistricting, reassignment, and mandatory pupil transportation, creation of a magnet school, and an improved curriculum to accomplish the plan. According to the superintendent, the school system in 1976 changed its emphasis from mandatory reassignment of students to the creation of additional magnet schools and improved curriculum. Three high schools opened on schedule as magnet schools in September 1978.

According to most community persons interviewed, desegregation appears to be working, although some serious problems remain. It is generally agreed that tension which led to open hostility in some schools during the early 1970s has disappeared, and most persons have accepted desegregation as inevitable. There has been some criticism that the school system has failed to make regular adjustments to assure compliance with the State law which requires that black student enrollment at any school should not deviate by more than 10 percent from the percentage of minority enrollment in the total system. In 1977–78 school officials considered seeking a waiver to this plan in order to develop a more comprehensive plan including black, Hispanic, and Portuguese students.

Other unresolved issues reportedly include the disproportionate busing of black students, underrepresentation of minority teachers, and inadequate reintegration of Hispanic and Portuguese students who have completed the bilingual program.

Information on pupil suspensions and community groups involved in desegregation were not available for this survey.

Rapid City, South Dakota

Profile

As of September 1978, Rapid City's school district had 12,261 students, of whom 90 percent were white, 7.9 percent were American Indian, 0.9 percent were Hispanic, 0.6 percent were black, and 0.5 percent were Asian American. In 1970 Rapid City schools had 13,867 students, of whom 91.4 percent were white, 7.2 percent were American Indian, 0.8 percent were Hispanic, 0.3 percent were black, and 0.2 percent were Asian American.

As of September 1978, only 2.5 percent of the more than 600 classroom teachers in the district were minorities. In 1975 the minority percentage was 2.8 percent. In 1978, 6 percent of Rapid City's 62 school administrators were American Indians, compared to 4.8 percent in 1975. No other administrators are minority persons. Throughout the 1970s an American Indian has been the only minority person on the five-member school board.

Of a total school budget of $22 million, approximately $2 million comes from Federal funds. Indian Education and Impact Aid monies account for $439,000 and ESEA Title I provides $511,000. There is a continuous inservice training program for teachers on Indian culture. This mandatory 8-hour program dealing with cultural awareness is funded by a Federal grant.

Desegregation Status

Rapid City has not implemented a voluntary school desegregation program in part because the Indian community has advised against such a plan. Attempts by the school district to reduce high concentrations of American Indian students have been resisted by American Indian leaders who are satisfied with the present attendance areas.

As Rapid City has not adopted a formal desegregation plan, Indian pupil enrollment varies considerably throughout the district. All schools have some Indian students, and no school has more than 40 percent Indians.

Dissatisfaction regarding Federal programs for Indians is voiced by both whites and Indians. Some Indians allege that these programs are mismanaged, and whites complain that Indian students get more than their fair share of available program resources.

Several Indian groups are disturbed at what they view as maltreatment of their children in the schools. Complaints allege such acts as the belittling of Indian children, the use of racial slurs, and the neglect of special problems that Indian children encounter. The director of legal services, an American Indian, observes, however, that white and Indian parents generally work well together.

A spokesperson for the Indian community has alleged that suspension and dropout rates for Indians are higher than those for whites. In 1976–1977, 45 (15.9 percent) of the 283 students suspended were Indian, compared to 226 whites (79.9 percent of the total). Of 271 students suspended during 1977–78, 43 (15.9 percent) were Indian, compared to 217 whites

(80.1 percent of the total). The community spokesperson attributed some of the problems encountered by American Indian students to a lack of sensitivity to Indian culture on the part of administrators and teachers.

Federal programs for which the district is eligible because of its Indian enrollment benefit the entire system. The bilingual program, recently selected for a workshop presentation at the annual International Bilingual Education Conference, has reportedly done much to increase the general awareness of Indian culture.

No community organization is actively involved in school desegregation. The school superintendent organized four community meetings for this purpose but reported little community participation.

Saint Louis, Missouri

Profile

Total public school enrollment in St. Louis in fall 1977 was 74,871, of which 72.5 percent was black. In 1970–71 total enrollment was 111,233, including 65.5 percent blacks. In 1977 there were 2,931 black and 2,258 white teachers and 189 black and 138 white administrators. No comparable data for 1970 were available. The 12-member school board currently consists of 10 whites and 2 blacks. In 1970–71 the board had nine white and three black members.

It is anticipated that Federal aid to St. Louis in the 1978–79 school year will amount to more than $12,577,000. That total will include $9,610,000 for Elementary and Secondary Education Act (ESEA) programs, primarily Title I, and $2,740,000 for Emergency School Aid Act (ESAA) programs.

District staff have participated in human relations and staff development workshops. These training programs focused on communications skills, conflict management, values clarification, and multiracial and multiethnic awareness.

Desegregation Status

The St. Louis school district currently operates a limited desegregation plan. In December 1975 the Federal district court approved a consent decree in which the district agreed to desegregate its faculty and to study the realignment of all elementary feeder schools to the academic high schools in order to minimize racial isolation in the high schools. The consent decree emanated from a suit filed in February 1972 by a predominantly black group from North St. Louis. The NAACP challenged the consent decree as inadequate to provide sufficient desegregation. Subsequently, the NAACP and the Justice Department joined the plaintiffs, while two citizens groups and the city of St. Louis were allowed to intervene in opposition to the allegations and remedies proposed by the original plaintiffs and the NAACP. Metropolitan desegregation remedies have been suggested by both plaintiffs and defendants. The court heard testimony from October 1977 through May 1978 and a ruling is expected in early 1979.

During the 1977–78 school year, St. Louis operated a voluntary plan that created three secondary and eight elementary magnet schools. These schools enrolled 3,680 students (4.7 percent of the district total), 66 percent of whom were black. Over 2,900 of these magnet school students were transported. Racial isolation, according to the school superintendent and the school board, "was reduced in a number of elementary schools through selection of appropriate recipient schools in the busing program to alleviate overcrowding." The district reports that at least 20 percent of faculty and auxiliary staff at each school are from the minority race at that school. Efforts to increase that minority figure to 30 percent through teacher transfers met with strong opposition from teacher groups in the spring of 1978.

A school district survey reported favorable student acceptance of the magnet school program, although the NAACP has objected to the limited number of students involved. The district has complained about HEW-imposed guidelines that allegedly discourage white students from integrated neighborhoods and nonpublic schools from applying for admission to the magnet schools. Several groups, such as the National Conference of Christians and Jews and the Citizen's Education Task Force, composed of both black and white leaders in the St. Louis community, have become involved in various formal and informal attempts to ensure peaceful acceptance of the eventual court decision as well as to bring dissident parties together to reconcile opposing views. Major corporations in St. Louis have provided direct support for the magnet schools.

The district has experienced a steady loss of white students; this loss was 11 percent in 1977–78. The district reports that this is the "highest percentage of white loss since statistics have been maintained." School board statistics show that in the decade 1962–72 the average loss of white students was 1,427 per

year. Since 1972, the year the suit was initiated, the white student loss has been considerably higher, 2,407 annually. Not all of this loss can be atributed to desegregation, however. A declining birth rate and the advanced age of the remaining St. Louis white population are also considered significant factors.

In its 1976–77 report to HEW/OCR, the district reported that student suspensions and expulsions numbered 4,105. Of that total, 83.4 percent were black, 16.4 white, 0.1 percent Hispanic, and 0.07 percent American Indian. Earlier suspension data were not available.

San Diego, California

Profile

Total public school enrollment in San Diego in 1977 was 118,460, including 64 percent Anglos, 14.8 percent blacks, 14.6 percent Hispanics, and 6.6 percent other minorities. Total enrollment in 1970 was 128,880, including 73.9 percent Anglos, 12.4 percent blacks, 10.6 percent Hispanics, and 3.1 percent other minorities. The school district's faculty in 1977 included 4,787 Anglos, 441 blacks, 299 Hispanics, and 190 other minorities. In 1970 the faculty was 5,840, of which 5,349 were Anglo, 307 black, 138 Hispanic, and 46 other minorities. The total number of administrative staff in 1977 was 446, including 350 whites, 51 blacks, 35 Hispanics, and 10 "other" minorities. The administrative staff total in 1970 was 398, including 362 whites, 16 blacks, and 14 Hispanics. The percentage of minority contract teachers in 1978 was 16.3, compared to 8.4 percent in 1970. Since 1970 the San Diego board of education has consisted of five members—four whites and one black who is the current board president.

Characteristic of federally-assisted programs currently in operation in San Diego schools are a basic grant program, pilot projects, and magnet school and special compensatory projects supported by a $2.5 million ESEA grant. A 1978 desegregation plan includes a human relations program to build positive relationship and understanding among students of various races in all facilities within the schools' jurisdiction.

Desegregation Status

In 1977 the Superior Court of the State of California, noting that 23 of San Diego's 167 schools were racially isolated, ordered development of a school desegregation plan. Later that year, the court approved the first-year phase of the 5-year plan but later rejected the ensuing 4-year element of the plan as being too vague. The court did not order mandatory efforts but instructed the district to alleviate racial isolation in the school system. A modified but still voluntary plan calling only for voluntary student transfers and open enrollments was then submitted to the court in 1978.

The plan will establish magnet programs and learning centers designed to attract white students to schools in the minority neighborhoods of southeast San Diego. Learning centers will be opened in fourth, fifth, and sixth grades in minority schools to which entire classes of children from predominantly Anglo schools will be bused 1 day a week. The learning centers (grades four to six) and magnet programs (one junior high school in 1978–79 and two junior high schools in 1979–80) are scheduled to take effect during the 1978–79 school year. Some of the centers will stress art, music, and basic skills, and others will emphasize science, health, or physical education.

On June 12, 1978, the superior court approved the school district's implementation of the plan for 1 year. An integration task force was appointed by the court in summer 1978 to observe the plan's progress, evalute its effect on individual children, and report findings to the court so that a final decision on the all-voluntary plan can be made. Task force members include the chief of police, representatives from San Diego State University and San Diego Community College, a bank president, and other business leaders. Other groups monitoring desegregation efforts are the San Diego Urban League, the San Diego Association of Black Social Workers, and the Chicano Federation.

Civil rights groups doubt that the plan can achieve desegregation without mandatory provisions. School officials, on the other hand, are confident the plan will succeed if it receives community support. They contend that a mandatory plan would accelerate white outmigration and point to a survey, conducted by the district in 1977, which found that more than 50 percent of white parents said they would withdraw their children from the district should a mandatory busing program be implemented.

School officials have instituted a media campaign to gain public acceptance of the plan. The director of the San Diego Urban League reports dissatisfaction with the plan among blacks, who regard it as placing the burden of desegregation on their children. However, he has pledged support for the voluntary

plan until a determination can be made as to its success.

An assistant superintendent finds general student acceptance of desegregation and believes the plan will improve the quality of education in San Diego by providing more options to students through special academic programs.

Data on pupil suspensions were not available for this survey.

Seattle, Washington

Profile

Total student enrollment in 1977–78 in Seattle's public schools was 58,353, including 65.3 percent Anglos, 18.3 percent blacks, 9.7 percent Asian Americans, 3.8 percent Hispanics, and 2.9 percent American Indians. Total student enrollment in 1973–74 was 72,045, including 74.4 percent Anglos, 15.3 percent blacks, 6.3 percent Asian Americans, 1.6 percent American Indians, and 1.3 percent Hispanics.

Total faculty and administrative staff in 1977–78 was 6,441, including 75.3 percent Anglos, 13.9 percent blacks, 7.5 percent Asian Americans, 1.7 percent Hispanics, and 1.6 percent American Indians. Faculty and administrative staff in 1973–74 totaled 6,311, including 82.9 percent Anglos, 11.5 percent blacks, 4.4 percent Asian Americans, 0.5 percent Hispanics, and 0.4 percent American Indians.

Federally-assisted programs in Seattle currently total $6,604,752, including $262,928 of Elementary and Secondary Education Act (ESEA) Title VII funds for basic bilingual programs and $6,341,824 of Emergency School Aid Act (ESAA) Title VII funds. ESAA programs include $817,675 for basic general assistance, $1,181,957 for magnet schools, $137,064 for pilot programs, $93,564 for preimplementation programs, $100,000 for desegregation, and $4,011,574 for special projects.

Desegregation Status

Seattle is the first major city to implement an extensive desegregation plan without court order. The school board's mandatory desegregation plan was implemented in fall 1978 following a teachers' strike that delayed the scheduled opening of schools. Through mandatory assignment of students by race, the plan is designed to prevent any school from exceeding 54 percent nonwhite enrollment. Approximately 4,500 pupils are being bused this year, and a total of 11,000 children will have been transferred to different schools by September 1979.

The plan links about half of Seattle's 83 elementary school areas for mandatory exchanges of students, but at the same time allows children such options as voluntary busing to magnet schools. After 3 years, 14,000 to 15,000 children will be transported, although kindergarten children are now exempt from being transferred. Past attempts to desegregate by voluntary transfer and by a magnet program instituted in March 1977 did not significantly reduce segregation. The magnet schools were also prohibitively expensive.

Most Seattle residents appear to accept desegregation, especially if it can be managed without court intervention. School officials believe the passage in March 1978 of a school tax levy indicates the community's willingness to accept desegregation. Community support can be attributed to strong backing by local officials and civic organizations and to extensive outreach efforts by Seattle school officials through advisory committees, public hearings, and active work with the Parent-Teacher-Student Association (PTSA). Both print and broadcast media have provided thorough coverage of the plan.

An antibusing group, which favors a return to wholly voluntary desegregation efforts, promoted a statewide initiative to prohibit "forced" busing. That initiative was approved by Washington State voters on November 7, 1978. A class action suit has been filed in U.S. district court by the Seattle, Tacoma, and Pasco school districts challenging the initiative's constitutionality. In March 1978 an ad hoc citizens group of parents, known as CIVIC, filed a lawsuit to prevent Seattle schools from beginning the mandatory busing plan. In June 1978 the suit was dismissed in King County Superior Court.

Some white outmigration but not a widespread exodus is expected. A school district survey of parents of magnet school students, nonmagnet racial transfers, and pupils in elementary schools with magnet programs showed that most parents intended to keep their children in these programs in 1978–79. Some parents feel there is a need for more individual instruction. Minority high school students have expressed some resentment and uneasiness about being placed in predominantly white schools, but all students seem to be going along with the new plan.

Examples of training programs in the past year included human relations training for teachers. Elementary teachers without at least 2 years' experience in a minority school were slated for 32-hour workshops, and 195 of 219 elementary teachers participated in the training last spring. In August 1978 the same 32-hour human relations workshops were conducted for all bus drivers enrolled in the district pupil transfer program.

Total student suspensions in 1977–78 were 8,069, including 49.6 percent Anglos, 37.9 percent blacks, 4.8 percent Hispanics, 4.5 percent Asian Americans, and 3.2 percent American Indians. Total student suspensions in 1973–74 were 2,026, including 57.1 percent Anglos, 35.9 percent blacks, 3.4 percent Asian Americans, and 2.6 percent American Indians. (The total figure for 1973–74 is not wholly compatible with current data because the racial categories were defined differently and suspensions of 1 to 3 days were not recorded. In 1973–74 Hispanics were included in the Anglo category.)

Longtime observers think that last year's faculty desegregation, which placed minority teachers in some schools for the first time, was an important factor in facilitating the smooth beginning for desegregation in fall 1978.

Solen, North Dakota

Profile

Solen is a small, predominantly white community of 172 people. As a school district, it functions as a desegregated, paired system with Cannonball, North Dakota, whose population of 400 on the Standing Rock Indian Reservation is predominantly American Indian. The district serves a total population of 2,580.

During the 1977–78 school year, 285 (or 84 percent) of the district's 338 students were American Indians. In 1974–75, 260 (79 percent) of the 340 pupils were American Indian. Of 26 teachers in the district, only 2 are American Indians. Four years ago, only 1 of 24 teachers was an American Indian. All three school administrators are white. The seven-member school board has included one American Indian during recent years.

Although the district sponsored no faculty or student desegregation training programs during 1977–78, it has applied for a program to provide teachers with 21 hours of mandatory cultural awareness training. In addition, Solen has received $56,000 in Federal funds to hire a multicultural counselor for students and to provide home visitations for the first time during the 1978–79 school year.

Of a total school budget of $560,000, Federal funds account for $244,000, most of which is Johnson-O'Malley and Impact Aid money.

Desegregation Status

School desegregation began in Solen School District No. 3 in August 1977 following pressure by HEW's regional Office for Civil Rights (OCR) in Denver. OCR threatened to cut off Federal funding for the district if its two schools were not desegregated.

As noted, Cannonball, on the Standing Rock Indian Reservation, and Solen, the adjacent white community, operate as a desegregated, paired school system. Grades four through six use the Cannonball school, and grades one through three and all junior and senior high school students attend school in Solen. All white students in grades four through six are transported to Cannonball, and Indian students in grades one through three and in junior and senior high school are transported to Solen. The Solen school board prepared the plan with assistance from local Indian groups and regional OCR staff. After a period of resistance from both the white community and Indian parents, the courts in North Dakota ruled against a suit filed by white parents challenging the legality of the plan.

Although there is no organized resistance at present, Federal and school officials report continuing dissatisfaction with the desegregation plan among white parents. Several parents have placed their children in private schools. The Solen school board is considering suing the State for approving the transfer of a white student to a public school outside the district. Apart from the president of the school board and the school superintendent, the white community has made no effort to make a success of the program. The school superintendent believes that local media reports have exacerbated these negative feelings.

Data on pupil suspensions were not available for this survey.

Springfield, Massachusetts

Profile

Springfield's total public school enrollment was 28,032 in October 1977. Of that total, 56.5 percent were white, 26.2 percent were black, and 15.8 percent were Hispanic students. In October 1970, total enrollment was 32,216. White student population was 71.7 percent of that total; blacks were 22.5 percent and Hispanics 5.8 percent.

In 1977 faculty and administrative staff were 87.4 percent white, 9.3 percent black, and 3.4 percent Hispanic. In 1970 the faculty and administrative staff was 92.3 percent white, 7.3 percent black, and 4 percent Hispanic.

As of October 1978 the school district had received approximately $5 million in Federal aid, and an additional $159,000 in ESAA funds.

Training programs connected with desegregation were last held in 1976. One of those programs involved instruction of 30 teachers on how to integrate bilingual students into regular classes.

Desegregation Status

Springfield desegregated its public schools in several phases. The city's four high schools have been integrated for years under an open enrollment plan. Junior high schools were desegregated in 1968 when a predominantly black school was closed and its students were assigned to six other schools in the city. In September 1974, in response to a Massachusetts board of education order, the city desegregated 30 to 36 elementary schools by redistricting the schools, reassigning students, and mandatory pupil transportation. The remaining six schools were desegregated a year later under a State board order.

Although the local school district has improved its performance in correcting Hispanic student isolation, in 1977 a Puerto Rican community group filed a complaint with HEW charging discrimination against Hispanic students and alleging that the bilingual program fails to meet the requirements of the *Lau* decision. HEW found aspects of the program in violation of the 1964 Civil Rights Act, and in the summer of 1978, the school board began to design a plan to resolve the problem. Other problems in the district include the underrepresentation of minority teachers and the community's allegation that black students receive unequal treatment.

During the 1976–77 school year, whites were 42.1 percent of all long-term pupil suspensions, blacks were 43.9 percent, and Hispanics were 13.4 percent. Data on pupil suspensions for the 1969–70 school year were unavailable.

Tacoma, Washington

Profile

Total pupil enrollment in Tacoma's public schools in 1977–78 was 31,026, including 81.1 percent Anglos, 13.1 percent blacks, 2.8 percent Asian Americans, 2.1 percent American Indians, and 1.5 percent Hispanics. Total enrollment in 1970–71 was 36,886, including 85.7 percent Anglos, 10.3 percent blacks, 1.6 percent American Indians, 1.3 percent Asian Americans, and 1 percent Hispanics. Faculty and administrative staff in 1978–79 totaled 3,535, including 86.3 percent Anglos, 10.1 percent blacks, 1.9 percent Asian Americans, 1 percent Hispanics, and 0.7 percent American Indians. Faculty and administrative staff in 1970–71 totaled 2,164, including 95.9 percent Anglos, 2.8 percent blacks, 0.6 percent Asian Americans, 0.4 percent Hispanics, and 0.3 percent American Indians.

Federal aid to Tacoma schools during fiscal year 1977 amounted to $7,495,353. That total included $1,353,101 under the Elementary and Secondary Education Act (ESEA), of which $171,555 was for Title I (Migrant) programs and $43,315 for Summer Special Food Programs; and $124,925 for ESEA Title IV Indian Education. Other fund sources and the amounts involved were ESEA Title VII Bilingual Education, $121,000; Emergency School Aid Act (ESAA), $590,124; and Indo-Chinese Refugee Assistance, $50,400.

Desegregation Status

After more than 10 years of voluntary, gradual changes, desegregation of Tacoma's school system was accomplished by 1972, without a court order, through a combination of optional enrollment policies and the creation of magnet schools. An active summer counseling program to encourage student transfers and to smooth the adjustment of students to their new schools is credited with making Tacoma's largely voluntary desegregation program successful.

The previous neighborhood school system was altered by implementing a districtwide access system. Under this system students could choose to attend any school in the district. Desegregation entailed minimal additional pupil transportation.

The districtwide access system was 95 percent voluntary. The only exceptions to this voluntary attendance plan were McCarver and Stanley Elementary schools. Children moving into the McCarver and Stanley neighborhoods could not choose to attend those schools, but were required to select any other school in the district. Procedurally, a student was required to submit an application to the district for the school he or she chose to attend, and waiting lists were used to determine priority.

In 1963 the school board set up a "Subcommittee to Study Defacto Segregation," whose seven members included two minorities. The subcommittee recommended to the board various desegregating activities. These activities as well as subsequent citizen involvement, official and unofficial, are described in a staff report to be published soon. In the past 2 years, student participation in school decisionmaking has been invited on an ad hoc, informal basis. The district has conducted extensive inservice training for some 1,500 teachers over a period of 13 years to sensitize them to the needs of minority students as Tacoma desegregated.

According to HEW/OCR regional staff, no racial imbalance currently exists in Tacoma's schools. Acceptance of desegregation by both white and black communities has been high and is generally attributed to the leadership of school officials and civic leaders who worked together to ease the city into the present situation. Since the passage of an open housing ordinance in 1975, previously all-white neighborhoods are being integrated by minority families.

Pupil suspensions for 1977–78 totaled 581, including 77.1 percent Anglos, 19.3 percent blacks, 2.4 percent American Indians, 0.9 percent Hispanics, and 0.3 percent Asian Americans. Suspensions for 1974–75 totaled 944, of whom 73.6 percent were Anglos, 21.7 percent blacks, 2.4 percent American Indians, 1.3 percent Hispanics, and 1 percent Asian Americans.

There have been no reports from minority students of disparities in disciplinary treatment. The minority dropout rate continues to decrease in the district, and the percentage of black youths pursuing their education beyond high school is rising.

Recently, minority administrators pointed to some problems in the school district's hiring and promotion system, and Tacoma school district leaders have met with them to seek out solutions. Solutions to these problems have not yet been determined.

Tucson, Arizona

Profile

Total public school enrollment in Tucson in 1977 was 57,346, including 26 percent Hispanics, 5.4 percent blacks, 1.1 percent American Indians, and 0.6 percent Asian Americans. Total enrollment in 1970 was 58,506, including 28.1 percent Hispanics, 5.3 percent blacks, 1.7 percent American Indians, and 1.2 percent Asian Americans. District records indicate that black and Hispanic classroom teachers numbered 65 and 129, respectively, in 1970, compared to 96 and 277 in 1978. In 1978 the five-member school board included one Asian American and one Hispanic, compared to one Asian American member in 1970.

Federal aid to Tucson schools amounted to $4,878,054 in 1977. Some programs supported by this aid included ESEA funds for improved opportunity for educationally disadvantaged children ($1,934,766); library and learning resources ($190,777); Title VII bilingual program ($244,659); Johnson-O'Malley Indian Education ($44,300), and Vocational Education Act programs ($524,645).

Desegregation Status

In 1975 Tuscon School District No. 1, with the assistance of the Mexican American Steering Committee and the Black Council on Education, developed a plan that detailed the school district's responsibility toward "equal access to quality education." In 1977 a group of black and Mexican American parents, unhappy with the rate of desegregation progress, filed suit in the Federal district court charging that the schools were segregated. In June 1978 the court ordered the school district to devise a desegregation plan specifically for 9 of 102 schools, to become effective with the opening of schools in fall 1978. A district plan that included the transportation of 350 additional K–12th grade students was implemented in September 1978.

The district has hired full-time staff to provide inservice training for classroom personnel in cultural awareness, and for 4 years school officials have worked with STRIDE (Service, Training, Research in Desegregated Education). A school board member believes that success in carrying out the court order will depend on how information is now provided to the community. He added that the two local newspapers have covered the desegregation issue in an objective manner. Community leaders indicate a

positive feeling about desegregation, and the district superintendent has promoted desegregation among the school board and staff.

Some local civil rightts leaders, however, are skeptical about the eventual outcome of the plan. They believe that, in the past, school boundaries were designed to maintain segregation. One said, "They have been busing minority kids right past white schools for years to segregated schools." He also said, "The better teachers are at the eastside [white] schools, while the probationary teachers are sent to minority schools." A local academician said he believes that most people "do not want any change that would affect their families, such as busing or the closing of schools." The only known group formed in opposition to desegregation is the "Tucson Unified Education Committee," which is made up primarily of Anglos. Two other community organizations involved in desegregation are the local NAACP and the Mexican American Legal Defense and Education Fund, both of which assisted black and Mexican American parents in their lawsuit in 1977.

In 1977 there were 841 student suspensions that included 24 percent Hispanics, 15 percent blacks, 8 percent Asian Americans, and 3 percent American Indians. In 1972 suspensions totaled 325, including 17.8 percent Hispanics, 12.6 percent blacks, 0.9 percent Asian Americans, and 0.6 percent American Indians.

Uvalde, Texas

Profile

In 1977 total public school enrollment in Uvalde was 4,627, including 68.6 percent Hispanic and less than 1 percent black. Total enrollment in 1970 was 3,618, including 62 percent Hispanic and less than 1 percent black. The school district's faculty totaled 192 in 1970, 8.3 percent of whom were Hispanic. By 1977 the proportion of Hispanic teachers had nearly doubled, to 15.4 percent of the district's 273 faculty members. Only 1 of 11 administrators was Hispanic in 1970, compared with 5 of 19 by 1978. Although one Mexican American served on the school board from 1970 to 1974, there are no minorities on the board now.

Federal aid to Uvalde schools is currently $1,017,084. That total includes $260,000 for Elementary and Secondary Education Act (ESEA) Title I programs and $230,000 for migrant education programs.

Desegregation Status

The 1970 suit to desegregate the Uvalde schools is unique, for it charged that Mexican American rather than black students were being segregated. In 1975 the U.S. Court of Appeals for the Fifth Circuit agreed, and the case *(Morales* v. *Shannon)* was remanded to the Federal district court for further action.

A pairing plan to desegregate four elementary schools, each of which had a Mexican American enrollment exceeding 66 percent, went into effect in 1976. Under the plan, only those students living outside a 2-mile radius of the school are provided transportation at public expense. According to the superintendent, the plan is working well.

Community leaders and a local attorney, however, claim that there have been numerous allegations that children are being segregated within schools through the misuse of ability grouping. "Ability groupings have the effect of separating children by race, despite the educational justifications that may be raised," stated a local leader. As their parents see it, Mexican American students are not motivated by school counselors to seek higher education, are not given adequate recognition as athletes, and are disproportionately suspended for disciplinary problems. According to student suspension data provided by the school district, there were 20 suspensions, 11 of which were Hispanic students, in 1974–75. Of 26 suspensions in the 1977–78 school year, 18 (69.2 percent) were Hispanic students.

Community leaders agreed that it is too soon to tell whether desegregation has resulted in educational improvements for Chicano students, although some schools have undergone physical improvements. A parent said, "We fought for the improvement of our schools, but it wasn't until the white community sent their children to our schools that the schools were improved." According to community leaders, there has been little or no white outmigration as a result of school desegregation.

Chapter 5

Conclusion

This report has examined school desegregation developments during the past 2 years at two levels: first, the Federal level, including desegregation-related activities of all three branches, the judicial, the executive, and the legislative; and second, at State and local levels, through brief reviews by the Commission's nine regional offices of the status of school desegregation in 47 school districts.

The picture that emerges from this review of the status of school desegregation in 1978 is far from clearcut. On the one hand, there are communities throughout the land where desegregation is working. Communities that have been divided over the issue are emerging as stronger communities as leaders from all walks of life work out constructive solutions to difficult educational problems. Children and young persons are being provided with genuine opportunities to obtain an education that will help prepare them to live in a pluralistic society. Equality of educational opportunity is beginning to take on real meaning. Some examples of communities that fall into this category out of the 47 on which we have reports are: Charlotte-Mecklenburg, North Carolina; Denver, Colorado; Providence, Rhode Island; Tampa, Florida; and Tacoma, Washington. It may be noted that among this group of 47, Seattle, Washington, instituted a compulsory program for desegregation of its schools without being ordered to do so either by a court or by the Department of Health, Education, and Welfare.

On the other hand, there are communities that have employed a variety of devices to prevent, obstruct, or slow down desegregation. Some of these communities have started or will start the desegregation process this school year. Examples of such communities out of our sample of 47 include Cleveland, Ohio; Indianapolis, Indiana; Los Angeles, California; and New Castle County (Wilmington), Delaware. The years of litigation should not deter these communities from meeting their constitutional obligations. The experience of other cities indicates that the goals are achievable.

In other cities, the obstructionist tactics of the last 10 to 15 years continue to block any meaningful school desegregation progress. Examples of such communities in our sample include Buffalo, New York; East Baton Rouge Parish, Louisiana; and Pittsburgh, Pennsylvania. Each year of delay, of course, is another year of denial of equal educational opportunities to many children and young people.

As we have noted, Congress has aided and abetted the obstructionists in the field of desegregation by attempting to make it increasingly difficult to enforce desegregation policies. Furthermore, although there are some encourgaging signs on the horizon, the executive branch has yet to mount the kind of all-out enforcement effort that will make clear that the Nation is firmly committed to the goal of ensuring equal educational opportunities. The planned strengthening of enforcement staff at HEW, if accompanied by a determination to cut off funds in case of violations of equal opportunity rights, will markedly change this picture.

Some public doubt has arisen as to whether recent decisions of the Supreme Court of the United States reflect a retreat from earlier principles set forth in *Brown* [1] and other decisions that followed that landmark ruling. In the Commission's view, *Brown* remains the law of the land, and the law must be vigorously enforced.

Concern has also been registered by Hispanic, Asian and Pacific Island Americans and by Ameri-

[1] 347 U.S. 483 (1954).

can Indian communities over the possible loss of bilingual-bicultural education opportunities in the course of desegregating schools. HEW's Office for Civil Rights must closely scrutinize local school programs in order to make sure this does not happen.

Finally, minority groups in various school districts allege and remain concerned about discriminatory patterns in student discipline, assignment, and the busing and suspension of minority students. Our surveys indicate that there is a basis for these concerns. Responsible Federal, State, and local officials must ensure that such problems receive continual review and that prompt and appropriate action is taken when evidence points to discrimination.

The 1976 Commission study stressed the basic importance of leadership on the part of the political officeholders at the Federal, State, and local levels to the desegregation effort.[2] This study reaffirms that conclusion.

The Commission makes the following recommendations:

1. The Congress should turn back all efforts to thwart school desegregation and should instead provide positive support for the constitutional imperative of desegregating the Nation's public schools.

(a) The Congress should reject measures designed to limit executive or judicial authority in the enforcement of school desegregation. Specifically, the Congress should repeal the Eagleton-Biden amendment to the HEW-Labor appropriations bill forbidding HEW to require, directly or indirectly, the transporting of any student to a school other than the school that, prior to any action after September 30, 1976, involving the merging, clustering, or pairing of said school with any other, was nearest the student's home and that offers the courses of study pursued by the student.

(b) Proposed legislation that seeks to define very narrowly the standards to be used by Federal courts in formulating segregation remedies would be inimical to the cause of equal educational opportunity in our public schools.

(c) Congress should make new funds available for voluntary efforts to achieve metropolitan school desegregation.

2. The Department of Health, Education, and Welfare through its Office for Civil Rights should further intensify its enforcement effort.

(a) The Department should expedite its program to clear the backlog of complaints and to reorganize and strengthen its school desegregation enforcement activities.

(b) Pupil enrollment survey data should be gathered and fully analyzed so as to provide timely information of importance to the school desegregation effort. Such analyses should be published promptly in order to contribute to a better understanding among the Congress, responsible State and local education officials, and the American people of the current level of segregation in the Nation's public schools.

(1) The Department, through its Office for Civil Rights, and its National Institute of Education, should continue to intensify the gathering and analysis of statistical data on a long-term basis in order to establish a national data base by school districts that will permit a longitudinal analysis of the effect of desegregation so that appropriate policies can be devised and implemented.

(c) An increasing number of Title VI compliance reviews of school districts in large metropolitan areas should be undertaken.

(1) In metropolitan areas characterized by a great concentration of minority pupils within the inner city and few in suburban schools, HEW should seek to determine whether such racial/ethnic isolation was caused by an interdistrict violation of the law.[3]

(2) HEW should develop comprehensive guidelines on the issue of metropolitan desegregation. These guidelines should clearly identify the civil rights and equal educational opportunity responsibilities of public school systems under the Constitution and under Federal law. The guidelines should cover the extent to which HEW will consider the roles that governmental bodies other than school districts, such as housing authorities, play in the creation of segregated school systems.

(d) HEW should expedite and complete fund termination proceedings where violation of the law has been established and where there is a failure to take corrective action. A failure to use this sanction when authorized to do so leads to the conclusion that the government does not really

[2] U.S., Commission on Civil Rights, *Fulfilling the Letter and Spirit of the Law* (1976), pp. 92–97.

[3] See U.S. Commission on Civil Rights, *Statement on Metropolitan School Desegregation* (1977), p. 118.

intend to do everything within its power to bring segregated education to an end.

All of the above steps should be possible with the authorized increase in personnel for the Office for Civil Rights within HEW.

3. The Department of Justice should assign sufficient resources to accelerate its response to school desegregation cases referred by HEW.

Enactment of the Eagleton-Biden amendment restricts the ability of HEW to enforce school desegregation through administrative actions and should result in an increase in the litigative workload of the Justice Department in this area. Failure to assign adequate resources to handle this workload will play into the hands of those who seek to perpetuate a system of segregated education.

4. An appropriate White House official should be designated by the President to coordinate, in addition to other duties in the civil rights area, all of the resources and authorities of the executive branch in order to bring about a vigorous and effective enforcement of the constitutional mandate to desegregate elementary and secondary schools.[4]

(a) This act of Presidential leadership would lead not only to more effective coordination, but would be a clear indication of the high priority that in his judgment should be given to the Nation's desegregation program.

(b) Executive departments and agencies should be directed to provide plans as to the steps they can and will take each year to facilitate school desegregation, including efforts to eliminate housing segregation.[5]

In 1978, 24 years after the *Brown* decision, much remains to be done to finish the uncompleted task of guaranteeing all children in this Nation an equal chance at a good education. The above steps, if promptly and vigorously pursued, will facilitate achievement of this vital objective.

The longer the delay in ending segregation in our public school systems, the greater will be the cost to all Americans in economic terms and in social and human values.[6] It must be understood that school desegregation is important not only to minorities, but to white Americans as well. Separation is "a denial of equal opportunity to white pupils who otherwise would 'benefit from unfiltered contact with their peers'. The benefits of school integration accrue to all. . . ."[7]

No other goal is as essential to the public interest of this Nation as the completion of the task of eliminating all forms of discrimination in our public schools. The duty of responsible officials at all levels to work on behalf of this goal is clear and irrevocable. Ultimate achievement of this objective remains "the touchstone of all racial equality in a pluralistic society."[8]

[4] Ibid., p. 117.

[5] See *Fulfilling the Letter and Spirit of the Law*, p. 157, where the Commission recommended various steps to be taken by the President and also the Congress to contribute to the development of desegregated communities.

[6] U.S., Commission on Civil Rights, *Twenty Years After Brown* (1977 ed.), p. 64.

[7] Ibid.

[8] Ibid.

Appendix A

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Appendix B

SCHOOL SUPERINTENDENTS OF 47 DISTRICTS SURVEYED

School Superintendents (responded as of Nov. 16, 1978)

Dr. John B. Peper, Superintendent, School District of Anchorage, Anchorage, Alaska

Dr. Jack Davidson, Superintendent, School District of Austin, Austin, Texas

Dr. John L. Crew, Superintendent, School District of Baltimore, Baltimore, Maryland

Eugene T. Reville, Superintendent, School District of Buffalo, Buffalo, New York

Dr. William Peckham, Superintendent, School District of Burley, Burley, Idaho

Dr. Jay M. Robinson, Superintendent, School District of Charlotte, Charlotte, North Carolina

Dr. Doug Bundren, Superintendent, School District of Clark County, Clark County (Las Vegas), Nevada

Dr. George M. Carnie, Superintendent, School District of Colorado Springs, Colorado Springs, Colorado

Dr. J. L. Jones, Superintendent, School District of Dade County, Dade County, Florida

Dr. Joseph E. Brzeinski, Superintendent, School District of Denver, Denver, Colorado

Dwight M. Davis, Superintendent, School District of Des Moines, Des Moines, Iowa

Arthur Jefferson, Superintendent, School District of Detroit, Detroit, Michigan

Dr. S. John Davis, Superintendent, School District of Fairfax, Fairfax, Virginia

Dr. Raymond Shelton, Superintendent, School District of Hillsborough County, Tampa, Florida

Karl R. Kalp, Superintendent, School District of Indianapolis, Indianapolis, Indiana

Dr. Robert Wheeler, Superintendent, School District of Kansas City, Kansas City, Missouri

Ernest C. Grayson, Superintendent, School District of Jefferson County, Louisville, Kentucky

Dr. O.L. Plucker, Superintendent, School District of Kansas City, Kansas City, Missouri

Francis Laufenberg, Superintendent, School District of Long Beach, Long Beach, California

Dr. William J. Johnson, School District of Los Angeles, Los Angeles, California

Dr. Lee McMurrin, Superintendent, School District of Milwaukee, Milwaukee, Wisconsin

Raymond Arveson, Superintendent, School District of Minneapolis, Minneapolis, Minnesota

Dr. Abe Hammons, Superintendent, School District of Mobile, Mobile, Alabama

Dr. Carroll W. Biggs, Superintendent, School District of New Castle County, Wilmington, Delaware

Dr. Frank Macchiarola, Superintendent, School District of New York, New York, New York

Dr. William L. Garner, Superintendent, School District of Ogden, Ogden, Utah

Hugh B. Ginn, Superintendent, School District of Oklahoma City, Oklahoma City, Oklahoma

Dr. Owen Knutzen, School District of Omaha, Omaha, Nebraska

Michael Marcase, Superintendent, School District of Philadelphia, Philadelphia, Pennsylvania

Dr. Jerry C. Olson, Superintendent, School District of Pittsburgh, Pittsburgh, Pennsylvania

Dr. Robert W. Blanchard, Superintendent, School District of Portland, Portland, Oregon

Dr. Marren M. Rosen, Superintendent, School District of Rapid City, Rapid City, South Dakota

Edward D. Fletcher, Superintendent, School District of San Diego, San Diego, California

Dr. David Moberly, Superintendent, School District of Seattle, Seattle, Washington

John H. Kauffman, Superintendent, School District of Solen, Solen, North Dakota

Dr. John E. Deady, Superintendent, School District of Springfield, Springfield, Massachusetts

Dr. Robert Wentz, Superintendent, School District of St. Louis, St. Louis, Missouri

Dr. Alexander Sergienko, Superintendent, School District of Tacoma, Tacoma, Washington

Sam Polito, Superintendent, School District of Tucson, Tucson, Arizona

Superintendents (no response as of Nov. 9, 1978)

Dr. Alonzo A. Crim, Superintendent, School District of Atlanta, Atlanta, Georgia

Clyde H. Lindsey, Superintendent, School District of Baton Rouge, Baton Rouge, Louisiana

Paul W. Masem, Superintendent, School District of Little Rock, Little Rock, Arkansas

R. E. Byron, Superintendent, School District of Uvalde, Uvalde, Texas

Dr. Robert Wood, Superintendent, School District of Boston, Boston, Massachusetts

Dr. Jerome B. Jones, Superintendent, School District of Providence, Providence, Rhode Island

Joseph P. Hannon, General Superintendent, School District of Chicago, Chicago, Illinois

Peter P. Carlin, Superintendent, School District of Cleveland, Cleveland, Ohio

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